

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on February 14, 2008 in Room 526-S of the Capitol.

All members were present except:

Senator Mark Gilstrap- excused

Committee staff present:

Dennis Hodgins, Kansas Legislative Research Department

Melissa Doeblin, Revisor of Statutes Office

Theresa Kiernan, Revisor of Statutes Office

Connie Burns, Committee Assistant

Conferees appearing before the committee:

Larry Magill, Kansas Association of Insurance Agents

Kimberly Steves, KDHE

Dr. James Hamilton

Steve Albright

Bill Slentz, Mid America Radon

Roger Dahlby, Radon Mitigations Inc

Luke Bell, Kansas Association of Realtors

Chris Wilson, Kansas Building Industry Association

Martha Neu Smith, Kansas Manufactured Housing Association

Others attending:

See attached list.

The Committee Minutes for January 15, 17, 22, 23, 24, and 31, distributed on February 7, 2008, with no changes stand approved.

Senator Barnett, requested two bill introductions concerning education funding and economic disasters.

1. An act concerning school districts; relating to school finance; relating to supplemental general state aid
2. An act concerning school districts; relating to school finance, Emporia, Chase County, and Northern and Southern Lyons County

Senator Barnett moved that this request should be introduced as a committee bills. Senator Reitz seconded the motion. The motion carried.

Larry Magill, Kansas Association of Insurance Agents, requested a bill introduction that concerns workers compensation and records open to the public. (Attachment 1)

Senator Vratil moved that this request should be introduced as a committee bill. Senator Reitz seconded the motion. The motion carried.

Senator Vratil requested a bill introduction on behalf of The Kansas Criminal Recodification Committee on reorganizing drug statutes from Chapter 65 pharmaceutical to Chapter 21 criminal.

Senator Vratil moved that this request should be introduced as a committee bill. Senator Barnett seconded the motion. The motion carried.

SB 577 - Radon awareness law and radon certification program

Chairman Brungardt opened the hearing on **SB 577**.

Senator Barnett appeared in support of the bill. (Attachment 2) Senator Barnett was contacted by a family who lost a loved one to radon-induced cancer of the lung. After diagnosis and the information from her oncologist, the home was tested for radon and was found to be elevated to a dangerous level. The story has prompted the development and introduction of the bill. Radon is the leading cause of lung cancer in

CONTINUATION SHEET

MINUTES OF THE Senate Federal and State Affairs Committee at 10:30 a.m. on February 14, 2008 in Room 526-S of the Capitol.

people who have never smoked. The bill would require certification of those actually performing testing and by July, 2011, would require radon testing be performed at the time of sale.

Kimberly Steves, Environmental Radiation, Emergency Preparedness, and Right To Know, Kansas Department Health Environment, (KDHE) spoke in support of the bill with amendments. ([Attachment 3](#)) KDHE believes the combined effort of providing information and testing during real estate transactions, and certifying the contractors who are performing the tests and installing the mitigation systems is the best way to prevent these cases of lung cancer in our citizens. The Kansas Radon Program is already a strong and active program within KDHE, the elements added by the bill will be a smooth transition for the program. The amendment would change the date on page 3, line 32 from January 1, 2009, to April 1, 2009.

Dr. James (Jim) Hamilton, American Cancer Society and American College of Surgeons Commission, appeared in support of the bill. ([Attachment 4](#)) Testing at the time of sale of all residential dwellings will create a safe housing pool over time, and reduce the risks of this silent killer to safe levels in Kansas.

Steve Albright spoke in support of the bill. ([Attachment 5](#)) As a real estate agent Mr. Albright has not had a radon problem slow or stop a transaction, and it is faster to get a home mitigated for elevated radon than to get a roof replaced or siding repaired. A typical residential radon measurement costs \$125 to \$150 when conducted by trained professionals. Residential mitigation systems usually cost between \$800 to \$1,000 in the Lawrence area. A proposed amendment was provided that put the process in the same time frame as the other inspections.

Bill Slentz, Mid American Radon, appeared in support of the bill. ([Attachment 6](#)) Mr. Slentz believes a bill of this nature is past due and has great potential for raising public awareness of a potentially lethal silent killer.

Robert Dahlby, Radon Mitigations Inc., appeared in support of the bill. ([Attachment 7](#)) As a licensed civil engineer and represents a licensed radon mitigators and testers group in Kansas, has the following observations:

- the standard professional radon test during a realty transaction is \$100
- \$1.00 to \$15.00 is done by the homeowner
- Mitigation cost is \$750 to \$1,700 but averages about \$1,100
- Homes only feet apart can test minimal to extremely high
- All homes from our experience can be mitigated
- more radon awareness is needed in Kansas

If passed, this bill can certainly save lives.

Gloria Linnertz, St. Louis ([Attachment 8](#)) and Gary Hodgden, Olathe, ([Attachment 9](#)) provided written testimony in support of the bill.

Luke Bell, Kansas Association of Realtors, appeared in opposition of the bill. ([Attachment 10](#)) The bill would make major changes to existing state law concerning the disclosure, testing and mitigation of radon gas in Kansas. Existing state law requires sellers to disclose material facts to the buyer of real property when the seller has knowledge of a defect in the property that is not within the fair and reasonable reach of the buyer. In a real estate transaction, this information is typically disclosed to the buyer by the seller in the Seller's Property Disclosure Statement. In this statement, the seller provides disclosures to the buyer on the condition of various conditions in the property ranging from the functionality of household appliances to the existence of lead-based paint or radon gas in the property. This legislation would create new radon disclosure requirements including a new separate radon disclosure form and brochure developed by the Kansas Department of Health and Environment (KDHE), require mandatory testing for radon gas in all real estate transactions and require all individuals who perform radon tests or mitigation to be certified by KDHE

Chris Woods, Kansas Building Industry Association, spoke in opposition of the bill. ([Attachment 11](#)) This

CONTINUATION SHEET

MINUTES OF THE Senate Federal and State Affairs Committee at 10:30 a.m. on February 14, 2008 in Room 526-S of the Capitol.

bill addresses new construction, which is most likely to have radon mitigation in place, and yet doesn't address multi-family housing or housing for the aging. Any standards should be based on sound scientific studies, be cost-effective and be implemented through the model code process. State laws should eliminate liability when homes are built to these model code standards. We support voluntary use of residential radon construction standards in building codes, statutes, or regulations. A residential measurement providers list servicing Kansas was provided.

Martha Neu Smith, Kansas Manufactured Housing Association, appeared in opposition of the bill. (Attachment 12) The bill is confusing as to when the disclosure should be given, before entering into a contract or prior to the buyer making an offer. The Association has concerns about the very broad authority this bill gives the Secretary of Health and Environment and the bill does not address individuals selling their own home, and how would they know about the "Radon Testing Guidelines for Residential Real Property Transactions" which is required to be provided to the buyer.

Phil Perry, Home Builders Association of Greater Kansas City (Attachment 13), and Jeff Barnes, Kansas Association of Real Estate Inspectors, (Attachment 14) provided written testimony in opposition of the bill

Chairman Brungardt closed the hearing on **SB 577**.

Final Action

SB 486 - Appointment of certain state officers subject to confirmation by the senate

Senator Vratil provided an amendment to the bill. (Attachment 15) The amendment would strike the legislator and replace with "appointing authority" on page 2, line 3, 14, 38, 40, and 41. Insert language about appearing before committee unless being re-appointed to the same position on page 11 line 41 and striking "may require such person to appear before the committee." New Section 36 KSA 75-4315a.

Senator Barnett moved the amendment. Senator Reitz seconded the motion. The motion carried.

Senator Brownlee moved to pass **SB 486** out favorably as amended. Senator Vratil seconded the motion. The motion carried.

The meeting was adjourned at 11:55 am. The next scheduled meeting is February 19, 2008.

GUEST LIST

2-14-08

[illegible]

Kansas Legislature

[Home](#) > [Statutes](#) > Statute[Previous](#)[Next](#)**45-221****Chapter 45.--PUBLIC RECORDS, DOCUMENTS AND INFORMATION****Article 2.--RECORDS OPEN TO PUBLIC**

45-221. Certain records not required to be open; separation of open and closed information required; statistics and records over 70 years old open. (a) Except to the extent disclosure is otherwise required by law, a public agency shall not be required to disclose:

(1) Records the disclosure of which is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or the disclosure of which is prohibited or restricted pursuant to specific authorization of federal law, state statute or rule of the Kansas supreme court to restrict or prohibit disclosure.

(2) Records which are privileged under the rules of evidence, unless the holder of the privilege consents to the disclosure.

(3) Medical, psychiatric, psychological or alcoholism or drug dependency treatment records which pertain to identifiable patients.

(4) Personnel records, performance ratings or individually identifiable records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries or actual compensation employment contracts or employment-related contracts or agreements and lengths of service of officers and employees of public agencies once they are employed as such.

(5) Information which would reveal the identity of any undercover agent or any informant reporting a specific violation of law.

(6) Letters of reference or recommendation pertaining to the character or qualifications of an identifiable individual, except documents relating to the appointment of persons to fill a vacancy in an elected office.

(7) Library, archive and museum materials contributed by private persons, to the extent of any limitations imposed as conditions of the contribution.

(8) Information which would reveal the identity of an individual who lawfully makes a donation to a public agency, if anonymity of the donor is a condition of the donation, except if the donation is intended for or restricted to providing remuneration or personal tangible benefit to a named public officer or employee.

(9) Testing and examination materials, before the test or examination is given or if it is to be given again, or records of individual test or examination scores, other than records which show only passage or failure and not specific scores.

(10) Criminal investigation records, except as provided herein. The district court, in an action brought pursuant to K.S.A. 45-222, and amendments thereto, may order disclosure of such records, subject to such conditions as the court may impose, if the court finds that disclosure:

- (A) Is in the public interest;
- (B) would not interfere with any prospective law enforcement action, criminal investigation or prosecution;
- (C) would not reveal the identity of any confidential source or undercover agent;
- (D) would not reveal confidential investigative techniques or procedures not known to the general public;
- (E) would not endanger the life or physical safety of any person; and
- (F) would not reveal the name, address, phone number or any other information which specifically and individually identifies the victim of any sexual offense in article 35 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto.

If a public record is discretionarily closed by a public agency pursuant to this subsection, the record custodian, upon request, shall provide a written citation to the specific provisions of paragraphs (A) through (F) that necessitate closure of that public record.

(11) Records of agencies involved in administrative adjudication or civil litigation, compiled in the process of detecting or investigating violations of civil law or administrative rules and regulations, if disclosure would interfere with a prospective administrative adjudication or civil litigation or reveal the identity of a confidential source or undercover agent.

(12) Records of emergency or security information or procedures of a public agency, or plans, drawings, specifications or related information for any building or facility which is used for purposes requiring security measures in or around the building or facility or which is used for the generation or transmission of power, water, fuels or communications, if disclosure would jeopardize security of the public agency, building or facility.

(13) The contents of appraisals or engineering or feasibility estimates or evaluations made by or for a public agency relative to the acquisition of property, prior to the award of

Sen Fed & State

Attachment 1
2-14-08

formal contracts therefor.

(14) Correspondence between a public agency and a private individual, other than correspondence which is intended to give notice of an action, policy or determination relating to any regulatory, supervisory or enforcement responsibility of the public agency or which is widely distributed to the public by a public agency and is not specifically in response to communications from such a private individual.

(15) Records pertaining to employer-employee negotiations, if disclosure would reveal information discussed in a lawful executive session under K.S.A. 75-4319, and amendments thereto.

(16) Software programs for electronic data processing and documentation thereof, but each public agency shall maintain a register, open to the public, that describes:

(A) The information which the agency maintains on computer facilities; and

(B) the form in which the information can be made available using existing computer programs.

(17) Applications, financial statements and other information submitted in connection with applications for student financial assistance where financial need is a consideration for the award.

(18) Plans, designs, drawings or specifications which are prepared by a person other than an employee of a public agency or records which are the property of a private person.

(19) Well samples, logs or surveys which the state corporation commission requires to be filed by persons who have drilled or caused to be drilled, or are drilling or causing to be drilled, holes for the purpose of discovery or production of oil or gas, to the extent that disclosure is limited by rules and regulations of the state corporation commission.

(20) Notes, preliminary drafts, research data in the process of analysis, unfunded grant proposals, memoranda, recommendations or other records in which opinions are expressed or policies or actions are proposed, except that this exemption shall not apply when such records are publicly cited or identified in an open meeting or in an agenda of an open meeting.

(21) Records of a public agency having legislative powers, which records pertain to proposed legislation or amendments to proposed legislation, except that this exemption shall not apply when such records are:

(A) Publicly cited or identified in an open meeting or in an agenda of an open meeting; or

(B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.

(22) Records of a public agency having legislative powers, which records pertain to research prepared for one or more members of such agency, except that this exemption shall not apply when such records are:

(A) Publicly cited or identified in an open meeting or in an agenda of an open meeting; or

(B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.

(23) Library patron and circulation records which pertain to identifiable individuals.

(24) Records which are compiled for census or research purposes and which pertain to identifiable individuals.

(25) Records which represent and constitute the work product of an attorney.

(26) Records of a utility or other public service pertaining to individually identifiable residential customers of the utility or service, except that information concerning billings for specific individual customers named by the requester shall be subject to disclosure as provided by this act.

(27) Specifications for competitive bidding, until the specifications are officially approved by the public agency.

(28) Sealed bids and related documents, until a bid is accepted or all bids rejected.

(29) Correctional records pertaining to an identifiable inmate or release, except that:

(A) The name; photograph and other identifying information; sentence data; parole eligibility date; custody or supervision level; disciplinary record; supervision violations; conditions of supervision, excluding requirements pertaining to mental health or substance abuse counseling; location of facility where incarcerated or location of parole office maintaining supervision and address of a releasee whose crime was committed after the effective date of this act shall be subject to disclosure to any person other than another inmate or releasee, except that the disclosure of the location of an inmate transferred to another state pursuant to the interstate corrections compact shall be at the discretion of the secretary of corrections;

(B) the ombudsman of corrections, the attorney general, law enforcement agencies, counsel for the inmate to whom the record pertains and any county or district attorney shall have access to correctional records to the extent otherwise permitted by law;

(C) the information provided to the law enforcement agency pursuant to the sex offender registration act, K.S.A. 22-4901, et seq., and amendments thereto, shall be subject to disclosure to any person, except that the name, address, telephone number or any other information which specifically and individually identifies the victim of any offender required to register as provided by the Kansas offender registration act, K.S.A. 22-4901 et seq. and amendments thereto, shall not be disclosed; and

(D) records of the department of corrections regarding the financial assets of an

offender in the custody of the secretary of corrections shall be subject to disclosure to the victim, or such victim's family, of the crime for which the inmate is in custody as set forth in an order of restitution by the sentencing court.

(30) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.

(31) Public records pertaining to prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the state. This exception shall not include those records pertaining to application of agencies for permits or licenses necessary to do business or to expand business operations within this state, except as otherwise provided by law.

(32) Engineering and architectural estimates made by or for any public agency relative to public improvements.

(33) Financial information submitted by contractors in qualification statements to any public agency.

(34) Records involved in the obtaining and processing of intellectual property rights that are expected to be, wholly or partially vested in or owned by a state educational institution, as defined in K.S.A. 76-711, and amendments thereto, or an assignee of the institution organized and existing for the benefit of the institution.

(35) Any report or record which is made pursuant to K.S.A. 65-4922, 65-4923 or 65-4924, and amendments thereto, and which is privileged pursuant to K.S.A. 65-4915 or 65-4925, and amendments thereto.

(36) Information which would reveal the precise location of an archeological site.

(37) Any financial data or traffic information from a railroad company, to a public agency, concerning the sale, lease or rehabilitation of the railroad's property in Kansas.

(38) Risk-based capital reports, risk-based capital plans and corrective orders including the working papers and the results of any analysis filed with the commissioner of insurance in accordance with K.S.A. 40-2c20 and 40-2d20 and amendments thereto.

(39) Memoranda and related materials required to be used to support the annual actuarial opinions submitted pursuant to subsection (b) of K.S.A. 40-409, and amendments thereto.

(40) Disclosure reports filed with the commissioner of insurance under subsection (a) of K.S.A. 40-2,156, and amendments thereto.

(41) All financial analysis ratios and examination synopses concerning insurance companies that are submitted to the commissioner by the national association of insurance commissioners' insurance regulatory information system.

(42) Any records the disclosure of which is restricted or prohibited by a tribal-state gaming compact.

(43) Market research, market plans, business plans and the terms and conditions of managed care or other third party contracts, developed or entered into by the university of Kansas medical center in the operation and management of the university hospital which the chancellor of the university of Kansas or the chancellor's designee determines would give an unfair advantage to competitors of the university of Kansas medical center.

(44) The amount of franchise tax paid to the secretary of revenue or the secretary of state by domestic corporations, foreign corporations, domestic limited liability companies, foreign limited liability companies, domestic limited partnership, foreign limited partnership, domestic limited liability partnerships and foreign limited liability partnerships.

(45) Records, other than criminal investigation records, the disclosure of which would pose a substantial likelihood of revealing security measures that protect: (A) Systems, facilities or equipment used in the production, transmission or distribution of energy, water or communications services; (B) transportation and sewer or wastewater treatment systems, facilities or equipment; or (C) private property or persons, if the records are submitted to the agency. For purposes of this paragraph, security means measures that protect against criminal acts intended to intimidate or coerce the civilian population, influence government policy by intimidation or coercion or to affect the operation of government by disruption of public services, mass destruction, assassination or kidnapping. Security measures include, but are not limited to, intelligence information, tactical plans, resource deployment and vulnerability assessments.

(46) Any information or material received by the register of deeds of a county from military discharge papers (DD Form 214). Such papers shall be disclosed: To the military dischargee; to such dischargee's immediate family members and lineal descendants; to such dischargee's heirs, agents or assigns; to the licensed funeral director who has custody of the body of the deceased dischargee; when required by a department or agency of the federal or state government or a political subdivision thereof; when the form is required to perfect the claim of military service or honorable discharge or a claim of a dependent of the dischargee; and upon the written approval of the commissioner of veterans affairs, to a person conducting research.

(47) Information that would reveal the location of a shelter or a safehouse or similar place where persons are provided protection from abuse.

(b) Except to the extent disclosure is otherwise required by law or as appropriate during the course of an administrative proceeding or on appeal from agency action, a public agency or officer shall not disclose financial information of a taxpayer which may be required or requested by a county appraiser or the director of property valuation to assist in the determination of the value of the taxpayer's property for ad valorem taxation purposes; or any financial information of a personal nature required or requested by a

(48) Workers compensation policy information required to be filed in accordance with K.S.A. 44-532 (h) (1), except an individual employer's record shall be accessible for purposes of verification of coverage.

public agency or officer, including a name, job description or title revealing the salary or other compensation of officers, employees or applicants for employment with a firm, corporation or agency, except a public agency. Nothing contained herein shall be construed to prohibit the publication of statistics, so classified as to prevent identification of particular reports or returns and the items thereof.

(c) As used in this section, the term "cited or identified" shall not include a request to an employee of a public agency that a document be prepared.

(d) If a public record contains material which is not subject to disclosure pursuant to this act, the public agency shall separate or delete such material and make available to the requester that material in the public record which is subject to disclosure pursuant to this act. If a public record is not subject to disclosure because it pertains to an identifiable individual, the public agency shall delete the identifying portions of the record and make available to the requester any remaining portions which are subject to disclosure pursuant to this act, unless the request is for a record pertaining to a specific individual or to such a limited group of individuals that the individuals' identities are reasonably ascertainable, the public agency shall not be required to disclose those portions of the record which pertain to such individual or individuals.

(e) The provisions of this section shall not be construed to exempt from public disclosure statistical information not descriptive of any identifiable person.

(f) Notwithstanding the provisions of subsection (a), any public record which has been in existence more than 70 years shall be open for inspection by any person unless disclosure of the record is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or by a policy adopted pursuant to K.S.A. 72-6214, and amendments thereto.

(g) Any confidential records or information relating to security measures provided or received under the provisions of subsection (a)(45) shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.

History: L. 1984, ch. 187, § 7; L. 1984, ch. 282, § 4; L. 1986, ch. 193, § 1; L. 1987, ch. 176, § 4; L. 1989, ch. 154, § 1; L. 1991, ch. 149, § 12; L. 1994, ch. 107, § 8; L. 1995, ch. 44, § 1; L. 1995, ch. 257, § 6; L. 1996, ch. 256, § 15; L. 1997, ch. 126, § 44; L. 1997, ch. 181, § 15; L. 2000, ch. 156, § 3; L. 2001, ch. 211, § 13; L. 2002, ch. 178, § 1; L. 2003, ch. 109, § 22; L. 2004, ch. 171, § 30; L. 2005, ch. 126, § 1; July 1.

STATE OF KANSAS

JIM BARNETT
SENATOR, 17TH DISTRICT
CHASE, COFFEY, GREENWOOD
LYON, MARION, MORRIS, AND OSAGE
COUNTIES



TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS

CHAIR: SENATE PRESIDENTS TASK FORCE ON
HEALTH CARE

CHAIR: PUBLIC HEALTH AND WELFARE

CHAIR: KANSAS HEALTH POLICY AUTHORITY
OVERSIGHT COMMITTEE

MEMBER: FINANCIAL INSTITUTIONS AND
INSURANCE

HEALTH CARE STABILIZATION FUND
ORGANIZATION, CALENDAR AND RULES
FEDERAL AND STATE AFFAIRS

Testimony to
Federal and State Affairs
Senate Bill 577 – Radon awareness law and radon certification program
Thursday, February 14
10:30am – Room 526-South

Chairman Brundgardt and other distinguished members of the Federal and State Affairs Committee, thank you for the opportunity to speak in support of SB 577.

Last year, I was contacted by the family of E. Juanita Donelson related to her death from lung cancer. Mrs. Donelson developed lung cancer and was told by her oncologist that she had a classic case of radon-induced cancer of the lung. This delightful lady had a pattern of spending a number of hours in her basement quilting. After diagnosis and the information from her oncologist, her home was tested for radon and was found to be elevated to a dangerous level.

That story has prompted the development and introduction of SB 577. Radon is the leading cause of lung cancer in people who have never smoked. By conservative estimates, 200 Kansans die every year from radon-induced lung cancer.

The legislation would initially help home buyers across our state become knowledgeable about the presence and risks of radon. Additionally, individuals would learn the possibilities of mitigation to reduce the risk of cancer. The bill would require certification of those actually performing testing and by July, 2011, would require radon testing be performed at the time of sale.

I consider this to be a very significant public health issue. As we make efforts to improve the health of Kansans and promote prevention, Senate Bill 577 will provide one additional opportunity to protect the health and wellbeing of our citizens.

Senator Jim Barnett

Sen Fed & State

Attachment 2
2-14-08



Kathleen Sebelius, Governor
Roderick L. Bremby, Secretary

DEPARTMENT OF HEALTH
AND ENVIRONMENT

www.kdheks.gov

Division of Environment

Testimony on Senate Bill 577
An Act enacting the radon awareness law and the radon certification law

Presented to
Committee on Federal and State Affairs

By
Kimberly Steves
Supervisor, Environmental Radiation, Emergency Preparedness, and Right-To-Know

February 14, 2008

Chairman Brungardt and members of the committee, my name is Kim Steves and I am the Supervisor of the Kansas Radon Program at the Department of Health and Environment. Thank you for the opportunity to provide testimony in support of Senate Bill 577 concerning the creation of a Radon Awareness Law and a Radon Certification Law.

Radon is a colorless, odorless, tasteless radioactive gas, which naturally comes from uranium in the soil. Radon is everywhere in the environment, and when entering homes and other buildings, builds up to higher concentrations. Radon is the second leading cause of lung cancer after cigarette smoking. It is the first leading cause of lung cancer in individuals who have never smoked. In Kansas, there are over 1700 new cases of lung cancer every year¹, and the American Lung Association estimates that 12% of all new lung cancer cases, or over 200 in Kansas each year, are caused by exposure to radon gas. With the cost of treating lung cancer currently estimated to be \$403,142 per year of life saved², treatment for 200 radon-induced lung cancer patients could be costing over \$80 million per year of life saved in Kansas health care dollars. Compared to these costs, the cost of testing for radon and mitigation is minimal.

No area of Kansas is safe from the risks of indoor radon exposure. We have documented elevated levels of radon in all 105 Kansas counties. There is no way to predict if a specific location will have elevated radon levels or not. The only way to know is to test. In the Kansas Radon Program database of indoor radon measurements for the state, over 40% of the more than 35,000 Kansas test results are higher than the action level of four pico-Curies per liter (4.0 pCi/l). This is more than one out of every three.

Passage of SB 577 would require the Kansas Department of Health and Environment to oversee a program focusing on increased awareness of radon and testing by Kansas citizens during residential real estate transactions. KDHE would also establish and administer a certification program for persons performing radon testing and mitigation in Kansas, and promulgate rules

CURTIS STATE OFFICE BUILDING, 1000 SW JACKSON ST., STE. 310, TOPEKA, KS 66612-1366

Voice 785-296-4359 Fax 785-296-0984

Sen Fed & State

Attachment 3
2-14-08

and regulations for the implementation and administration of both programs. KDHE would be authorized to establish a fee schedule to defray part of the costs of the program.

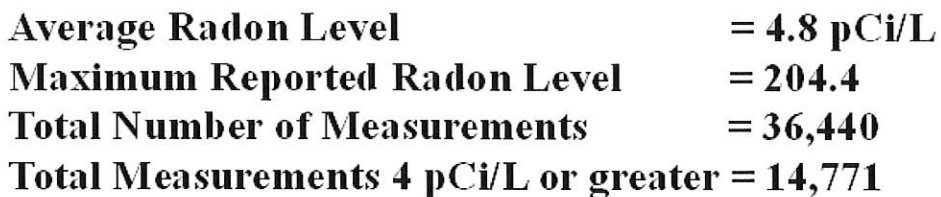
Providing information on radon risks during real estate transactions is an excellent way to educate Kansas citizens about the dangers of radon and how to protect themselves. Having a radon test performed during a real estate transaction at the same time as many other home inspections assists the buyer in identifying a possible defect with the property they are considering purchasing. It is already the policy of relocation companies to include a radon warranty with their real estate transactions.

Because radon gas is colorless, odorless, tasteless, and otherwise undetectable except with specialized equipment or test kits, it is a risk of which people may be unaware, ignore, or unfortunately disregard. Without a radon test, our citizens have no other way of knowing if they may be living in a home where they are breathing dangerous radon levels. To be accurate, a radon test must follow established testing standards and protocols. If elevated radon levels are measured, a radon mitigation system installed correctly by a trained and certified contractor ensures the system will function to reduce radon levels in the home. At this time, there are many individuals who conduct radon measurements or who may be mitigating homes in Kansas who are not properly trained, and who are not following established protocols and standards for radon testing or mitigation. Although we do not have data on the number of non-certified radon contractors operating in Kansas, information from our citizens indicates there are issues. We have investigated cases where incorrectly performed radon tests resulted in false negative results. We have also witnessed incorrectly installed mitigation systems. Incorrect installation can cause a more serious radon problem or other indoor air quality issues such as raising carbon monoxide levels. It is the intent of the certification program to ensure that all contractors in Kansas have demonstrated the needed knowledge, expertise, and competency to measure and/or mitigate for radon gas, and will follow established standards of practice. This will increase consumer protection and confidence and is why nineteen other states have already passed similar legislation requiring certification of the radon contractors in their states.

In summary: Exposure to elevated levels of radon gas for an extended period causes lung cancer. Testing for radon and fixing elevated levels may prevent most of the future radon-induced lung cancer cases in our state. The Kansas Department of Health and Environment believes the combined effort of providing information and testing during real estate transactions, and certifying the contractors who are performing the tests and installing the mitigation systems is the best way to prevent these cases of lung cancer in our citizens. Because the Kansas Radon Program is already a strong and active program within KDHE, the elements added by this bill will be a smooth transition for the program. KDHE urges favorable consideration and support to SB 577. I appreciate the opportunity to provide these comments and will be happy to answer questions when the time is appropriate.

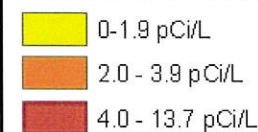
References: ¹Kansas Cancer Registry (2004 data), ²Medscape Medical News, October 25, 2007

33



Copyright 2008, KDHE and Kansas State University. Caution: This map has been produced from the results of a limited statewide indoor radon survey completed by KDHE in 1988, with the addition of indoor radon collected since. This map is provided free of charge to the public and is generated for study purposes only. As further data becomes available, revision will be necessary. This map cannot be used to characterize or predict indoor radon levels at any specific area or location. Measurement must be performed to determine radon levels in any given residence or building. Contact the Kansas Radon Program at 800 693-5343. Permission is hereby given to reproduce this map provided it is reproduced in its entirety without modification.

2008 Kansas Radon Values by County



1 the offer without penalty therefor.

2 (3) The provisions of this subsection shall not apply to transfers spec-
3 ified in paragraph (2) of subsection (d).

4 (f) Failure to comply with the requirements of this section shall make
5 any contract to purchase residential real property voidable. A seller of
6 residential real property who fails to comply with the requirements of
7 this section shall be liable for the costs incurred by the buyer of such
8 property for the performance of radon measurement and radon mitiga-
9 tion on such property.

10 New Sec. 2. Sections 3 through 8, and amendments thereto, shall be
11 known and may be cited as the radon certification law.

12 New Sec. 3. As used in this act:

13 (a) "Mitigate" means to repair or alter a building or design for the
14 purpose in whole or in part of reducing the concentration of radon in the
15 indoor atmosphere.

16 (b) "Person" means any individual, corporation, partnership, firm, as-
17 sociation, trust, estate, public or private institution, group, agency, state,
18 political subdivision or agency of a state or political subdivision, or any
19 legal successor or representative thereof.

20 (c) "Radon (Rn)" means the naturally occurring, colorless, odorless,
21 radioactive gaseous element formed by radioactive decay, including ra-
22 don-222, radon-220 (thoron), radon decay products and radon progeny
23 or as defined by rules and regulations adopted by the secretary.

24 (d) "Secretary" means the secretary of health and environment.

25 (e) "Test" means: (1) Examination of a building, soil or air for the
26 presence of radon, including taking air or soil samples; or (2) diagnosis of
27 the cause of radon contamination.

28 New Sec. 4. (a) The secretary shall establish a certification program
29 for persons performing radon tests or mitigation in the state.

30 (b) The secretary shall adopt rules and regulations necessary to ad-
31 minister and implement the provisions of this act. Such rules and regu-
32 lations shall be adopted no later than ~~January~~ 1, 2009.

33 (c) Within the limitations of appropriation acts, the secretary is au-
34 thorized to employ appropriate personnel necessary to carry out the pro-
35 visions of this act and rules and regulations adopted hereunder.

36 (d) The secretary may enter into agreements with a public or private
37 agency in carrying out the provisions of this act.

38 (e) The secretary may deny, suspend or revoke certification issued
39 under this act for a violation of any provision of this act or any rule and
40 regulation adopted under this act, after notice and hearing in accordance
41 with the provisions of the Kansas administrative procedure act.

42 New Sec. 5. The secretary may establish a schedule of fees to defray
43 all or part of the costs of the radon certification program. The secretary

Delete "January" from line 32 and insert "April."

Radon: Risks and Benefits

- Radon Facts
 - Radon is an odorless, colorless, tasteless, radioactive gas that is naturally emitted from the earth's crust.
 - Radon is an inert radioactive gas. It does not react with other gasses, and is heavier than other gasses. This leads it to "pool" in higher concentrations in tightly enclosed, insulated spaces like basements.
 - Radon is the second leading cause, behind tobacco, of lung cancer in the United States. Levels above 4 picocuries per liter are considered dangerous, and the cancer risk increases exponentially as the concentration of radon rises above this level. Radon exposure is especially dangerous in those who are already smokers, as the effects of smoking and radon together are multiplicative.
 - Radon is believed to cause lung cancer by inducing genetic damage to lung cells through the release of ionizing radiation in the lungs, and the creation of free radicals within the affected cells.
- Radon Problem
 - 40% of Kansas homes, when tested, will have levels of radon that exceed the recommended safe levels.
 - We have a silent killer sleeping in 40% of Kansas homes!
- Radon abatement
 - Radon cannot be eliminated, but relatively simple, inexpensive measures can reduce risks to acceptable levels
 - Passive radon systems in new construction
 - A simple large bore PVC pipe placed centrally in the house and vented through the ceiling with holes beneath the slab, and an impermeable plastic barrier between the slab and the PVC pipe is usually all that is required
 - Passive heat from the house surrounding the PVC pipe creates a natural convection through the vented pipe which draws the radon out from under the slab and releases it into the atmosphere
 - Active radon systems
 - These require essentially the same mechanisms as passive, but an electric fan is needed to supplement the natural convection so that radon is actively evacuated from the subfloor into the atmosphere
 - Cost for a passive system in new construction is between \$400.00 to \$1500.00. Active systems and retrofitting for existing dwellings are more expensive.
- Testing at sale of all residential dwellings will create a safe housing pool over time, and reduce the risks of this silent killer to safe levels in Kansas.

February 14, 2008

Testimony on Senate Bill #577

An Act enacting the radon awareness law and the radon certification law.

Testimony by:
Stephen E. Albright, Broker
McGrew Real Estate
Lawrence, KS 66049
785-843-2055

Mr. Chairman and members of the Committee on Federal and State Affairs,

Thank you for taking the time to review my testimony in support of SB #577.

I feel compelled to testify because of my unusual professional background. I have had successful careers in both the radon and real estate industries.

From 1989 until 1998 I was an EPA qualified radon measurement and mitigation contractor. I have worked on projects for the Midwest Universities Radon Consortium, Kansas State University Engineering Extension, KDHE, and the EPA as well as numerous projects for individuals, corporations, school districts and local governments.

In 1999 I switched careers and became a licensed real estate salesperson in Kansas. I am currently a licensed broker in Lawrence and have successfully participated in hundreds of real estate transactions.

What I have and continue to experience with regard to radon and real estate transactions is this:

- 1) There is a wide range of responses to questions from Buyers and Sellers by real estate agents without sufficient information or knowledge of measurement data and mitigation strategies. The results are confusion, frustration and in some cases misjudgments on the part of consumers and agents.
- 2) There are no commonly applied guidelines or protocols for radon measurement interpretation or mitigation standards. Again, the results are additional confusion and frustration by all.

It is my experience that when confusion and frustration are the dominate emotions solvable problems are quickly blown out of proportion.

What the real estate industry and consumers need are answers to questions and guidance to solutions instead of the "well I heard from so-and-so" opinions of those less knowledgeable and experienced albeit well intentioned. I believe SB #577 will accomplish both.

As a real estate agent I have not had a radon problem slow or stop a transaction. It is easier and faster to get a home mitigated for elevated radon than to get a roof replaced or siding repaired.

Typical residential radon measurement costs are \$125 to \$150 when conducted by trained professionals. Residential mitigation systems are usually cost between \$800 to \$1,000 in the Lawrence area. These costs are not insignificant, but neither are they debilitating when considering the cost of a home.

It is my observation that Buyers, Sellers and real estate agents will "do the right thing" when shown the pathway. I believe SB #577 will do just that.

Respectfully,

Stephen E. Albright

Proposed Amendment to SB 577 – Revised Section 1. (e) (1)

(e) (1) From and after July 1, 2011, the radon level of residential real property offered for sale shall be determined either by:

(A) Radon measurements performed on such property by the seller using radon measurement kits approved by the secretary. Radon measurements performed pursuant to this paragraph shall be performed in compliance with standards prescribed in rules and regulations adopted by the secretary;

(B) a radon measurement performed on such property by a certified radon measurement technician, ordered by the buyer and/or seller; or

(C) a written acceptance by the buyer of radon measurements on such property disclosed by the seller of the property, in compliance with subsection (d)(1) , or performed in compliance with (e)(1)(A), or (B) above.

TESTIMONIAL

February 14, 2008

Re: Senate Bill No. 577

Pro

By Bill Slentz:

Owner Operator of Mid America Radon Testing. Since 1987

Radon is dangerous. It is the leading cause of lung cancer among non-smokers and it kills thousands of people every year. This blunt truth is largely unrecognized by the general public.

Over the last 20 years that I have been testing for and mitigating radon the most commonly asked question by home owners is "What is Radon?" After learning of radon and its potential health risks the second question is "Why have home owners not been made aware of this?"

Comments from home owners that I deal with are usually:

- a) Why aren't builders required to address this when the home is built?
- b) Nobody told us about radon when we bought this house.
- or
- c) Our realtor said radon wasn't a problem in this area--no need for a test.

I believe a bill of this nature is past due and has great potential for raising public awareness of this potentially lethal silent killer.



*Advanced
Environmental
Services Inc.*

3825 SW Dukeries Rd.
Topeka KS 66610-1506
(785) 231-9324

Date: February 14, 2008

Subject: **SB 577 Fine Radon Awareness Legislation**

Honorable Senators of the Great State of Kansas,

I represent a group of licensed radon mitigators and testers in Kansas. I would like to first open citing our background of the mitigation efforts in Kansas. I have worked in the radon industry for two and a half years, a licensed environmental engineer in Kansas for 12 years, a 7 year decorated fire fighter/EMT, and have been before the Kansas Senate recognized as one of the heroes of the September 2005 floods. As a licensed Civil Engineer, working full time, I can assure you my passion for my work in radon is not for the money. The real drive is more along the lines of my work as a volunteer fire fighter; to make a positive impact on this world and save lives. I know making a difference is what brought you as well to the noble calling of being a Kansas Senator. This fine legislation is just the right avenue to make just such a difference.

As we mitigators and testers work directly with the citizens we almost always find ourselves as educators on the subject. It is a fairly complex topic and the people of Kansas deserve a knowledgeable mitigator and/or tester working with them on this sensitive issue. We have spent hours talking to customers in tears about their fear of cancer giving them the real information and facts. This takes tact and knowledge of the subject. Many unlicensed contractors make their best efforts in mitigating homes only to place citizens at more risk. For instance, if a mitigation system is installed incorrectly without the proper training he/she might actually suck deadly carbon monoxide back into the home from the gas furnace and/or hot water heater chimney. We have many times come across homes that have been improperly tested under extreme weather conditions scaring the home buyers into believing they have a radon problem. However, after having a licensed professional test their home under industry standards, they find their levels to be acceptable. While the person testing these homes did so with good intention, it does require a level of education to be conducted correctly. Home buyers and sellers need to make informed decisions with the facts before buying a home with their hard earned money.

Sen Fed & State

Attachment 7
2-14-08

Conservatively 200 Kansans each year sadly have their lives cut short by radon gas infiltration in their homes. Think about all the things in life we fear that doesn't even approach that risk. We have established in many Kansas counties more than one in four will be tested above the EPA recommended 4.0pCi/l. Of the over 1,000,000 households in Kansas there would be something like 200,000 homes over that level. These homes have men, women, and children breathing unacceptable levels of lung damaging radiation each and every day. Levels much higher than workers at Wolf Creek are expected to tolerate.

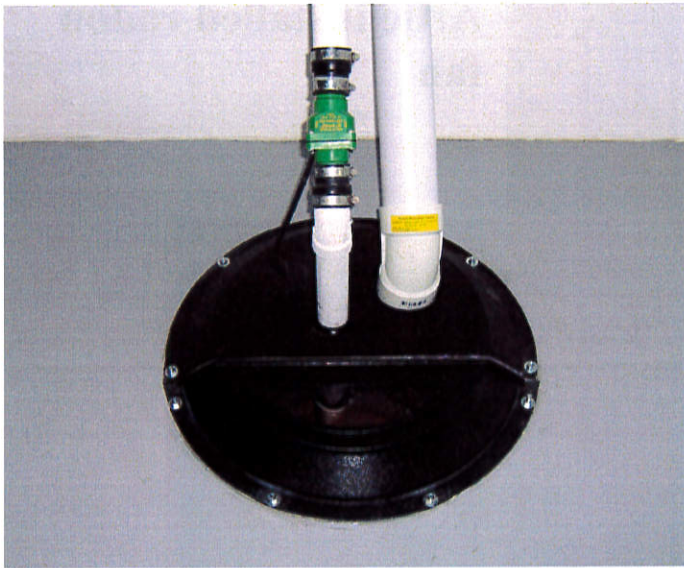
Local Observations:

- The standard professional radon test during a realty transaction is \$100
- \$1.00 to \$15.00 if done by the homeowner.
- Mitigation cost is \$750 to \$1700 but averages about \$1,100.
- Homes only feet apart can test minimal to extremely high.
- All homes from our experience can be mitigated.
- More radon awareness is need in Kansans.
- If you pass this legislation we can be certain lives will be saved.

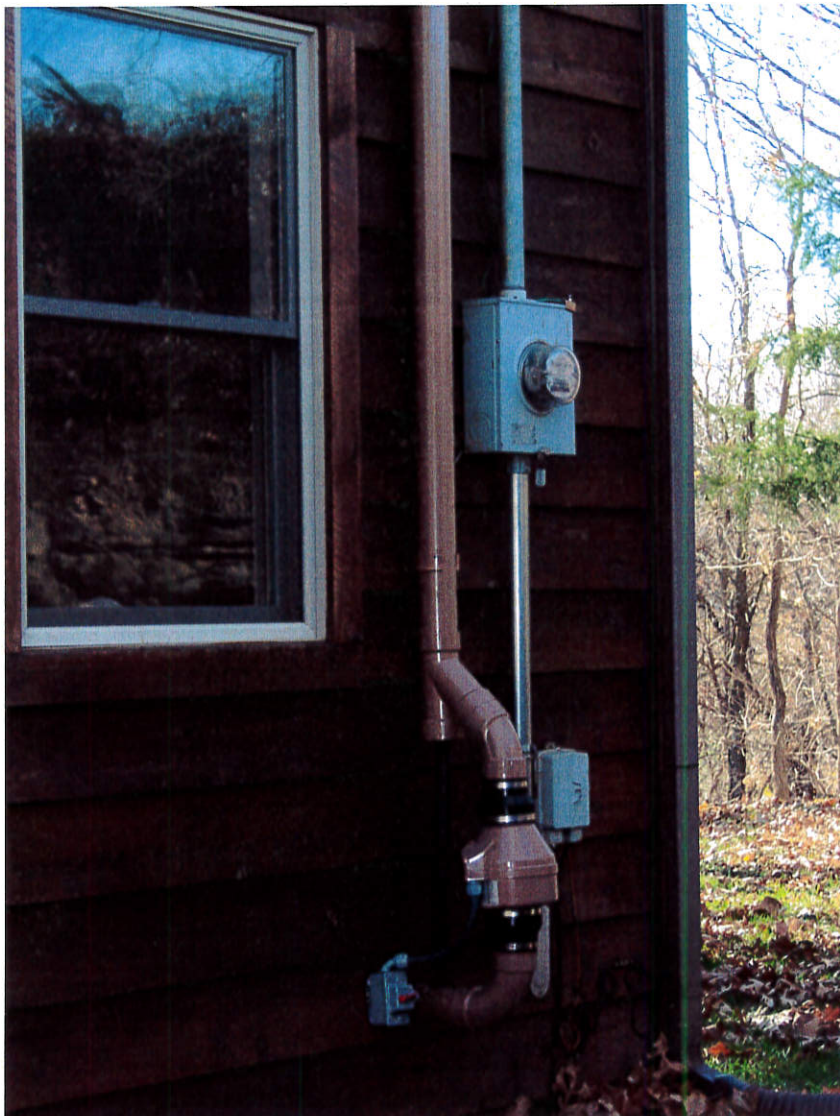
In my short experience in the radon industry I have met all too many people dying from probable radon caused lung cancer as they have never smoked and tested high for radon. I mitigated Jaunita Donnellson's home for \$1,050 and spent hours talking and getting to know that incredibly nice lady. As I picked up my post mitigation test equipment and made some minor adjustments I can still picture her playing dolls with my one year old on her basement floor. I felt for Elane Ropp of Fort Scott as she was having a rough day from her treatments. She was wearing that stylish head scarf that cancer patients wear as we discussed the radon issues and the need to let more people know before it was too late. Several others that can't claim the innocents of never smoking but the radon levels likely exacerbated or accelerated the cancer. Being only one of many mitigators I know there are many other sad stories. A colleague of mine pained over a story recently about a rancher he met in Western Kansas that had never smoked and he tested over 60pCi/l in his beautiful home that he never knew about until it was too late. After meeting these people it is hard not to do everything we can to see that others don't have to go through this nightmare. I personally identify with the family members as I watched my mother slowly waste away and die from the scourge of cancer thus my passion over the subject.

We whole heartedly support SB 577 and the presented amendments. We commend your time and efforts along with those that have work so hard getting us to this landmark point. If you have any questions please don't hesitate to ask us in the radon industry so you too can make an informed decision.

Sincerely,
Roger J. Dahlby, P.E.
Licensed Professional,
Radon Mitigator
Radon Testing Specialist
Volunteer Fire fighter/EMT/Swift Water Tech.
Environmental/Structural Engineer



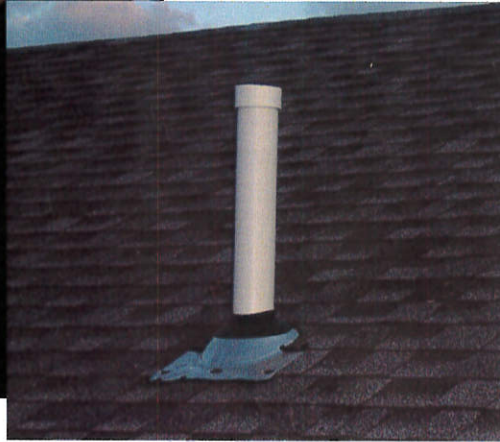
Properly covered sump pump



**Exterior mounted
radon fan**



Attic installed radon fan



Unlicensed mitigations:

- Fan installed in home
- Stack below windows
- Humid air near electrical
- Improperly attached



Dear Kansas Senators,

Two years ago last Friday; lung cancer took the life of my husband, Joe. When we asked the oncologist what could have caused this cancer, he said smoking and **radon gas**. We led a very healthy life style, walking everyday, low fat diet and Joe hadn't smoked in 27 years. We didn't even know what radon gas was. Joe was diagnosed with lung cancer that had spread to his liver and bones. We were devastated; he only lived one and a half months.

One month after Joe's death, I heard on the morning news that Dana Reeves, a 44-year old nonsmoker had died of lung cancer. There was a slight mention of radon as a cause of lung cancer. Remembering what the doctor had said, I searched the Internet and found that I could buy a test kit at the hardware store. The results of that test showed we had been living with over four times the EPA action level of radon for over 18 years in our home.

I knew then there had to be a law that would prevent people from buying a home with high radon levels. With the God's help and that of my representative, Dan Reitz, we were able to get the Radon Awareness Act passed in Illinois effective January 1, 2008. The bill passed the House and Senate unanimously. The governor signed the bill on and Joe's and my 32nd anniversary although he had not idea about that.

You have within your power the ability to help save thousands of lives with the passage of SB577, the radon awareness law. Mandatory testing at the point of sale and licensing for mitigators and testors will ensure the homebuyers of a home safe from this silent killer. The U.S. Surgeon General, the National Academy of Sciences (BEIR VI), and the World Health Organization all consider radon to be a serious health risk. Our state governments must protect their citizens because most people don't even know what radon is and certainly don't think it's in their house. The only way to know is to test.

I regret tremendously that I cannot be present for the hearing.

Gloria Linnertz
618 Evansville Ave.
Waterloo, IL 62298
618 830 4660
seascape@htc.net



Taken 2 months before Joe's diagnosis



February 14, 2008

Testimony on Senate Bill 577

An Act enacting the radon awareness law and the radon certification law

Testimony by Gary Hodgden

AAIR Professionals, Inc. (Midwest Radon)

913-780-2000 * 25005 W. 129th Ter., Olathe, KS. 66061

Mr. Chairman and members of the Committee on Federal and State Affairs:

I appreciate your time for reviewing my observations of the current status of radon related services and relationships to real estate transactions in Kansas.

Twenty years ago, I embarked into the profession of radon testing/mitigation. It was an extension of a family business that has provided home inspections for real estate transactions since 1976 in the Kansas City area.

95% of all radon testing and awareness occurs during real estate transactions. Not unlike other inspections, this is the time where purchasers either sign a release or have an item inspected. In recent years, even HUD backed loans require a specific release signature for independent home inspections and radon testing.

I have observed over the years that most professionals in home inspection, repair, home construction and real estate sales in Kansas are honest and forthright people.

I have also observed that most are poorly versed in the risk of long-term exposure to ionizing radiation, procedures that create reproducible measurements or in this fact: Radon risk in Kansas rivals almost any area of our country.

The natural result:

- 1) Inaccurate and misleading consultation on health risks. It is not uncommon for highly elevated radon concentrations to be described by hired consultants from real estate professionals or inspection professionals as, "No big deal. I wouldn't pay to fix it."
- 2) Neglected test procedures that often severely underestimate exposure to ionizing radiation. It is not uncommon that neither the test technician nor real estate professionals even know about the importance of EPA's "closed building protocol" to simulate conditions as occupied 70% of the year. It is therefore not uncommon that the test is, instead, a measurement of outside air.
- 3) Inappropriate consultation regarding test recommendations: It is not uncommon for paid consultants from the ranks of inspectors, builders or Realtors to



inaccurately discourage testing because: "Our area as radon free"; "This Style of home could not have radon"; "The previous test indicated readings similar to outside air"; "I've been in the business for 25 years and never found a home with a problem".

These professionals are not very often bad people. They are simply ill-informed. Unfortunately, their actions are not only dangerous to the health of consumers but also to their own survival as professionals. Our lives are busy and the national noise of so many problems drown out messages like lung cancer from radon.

Regarding Science and radon risk:

I am missing this hearing because I was scheduled to provide a Webinar presentation for national stakeholder cooperative discussions sponsored by EPA in Washington. My national volunteer activities currently have me chairing the executive committee for a nationally accredited standards developer, the AARST Consortium on National Radon Standards.

With thousands of hours in national meeting discussions over the years, I provide these observations on science and radon risk:

I have witnessed highly intelligent physicians and radiation physicists miss the magnitude of the radon issue. For people spending their days concerned about how much radiation might cause a death from short-term exposure situations, the typical exposure from radon seems inconsequential. Still, nobody argues over potential deaths from radon exposure anymore that they would argue that radiation exposure from the sun does not cause skin cancer. The only argument is to what degree of exposure should be set as a recommended limit. Unfortunately, it is like arguing over how many years of working in the sun we should set as a recommended limit for avoiding skin cancer. Only a few million case study examples could truly quantify trends in exposure intensity and time periods for solar radiation induced skin cancer. Without a few million case studies, all we really know is: 1) That nationally each year about 8,000 skin cancer deaths are expected to have been caused by solar radiation while about 21,000 are expected to result from radon induced lung cancer; 2) That expected deaths from radon each year are more than all other home related causes of death, combined; 3) That these numbers are 4-5 time higher than deaths expected from second hand smoke; and 4) that the yearly toll is virtually in a dead heat for competing with deaths from drunk driving.

In Kansas: The correlation to estimates from the National Academy of Sciences in relationship to the population in Kansas results in greater than 200 preventable lung cancer deaths per year in Kansas from radon. This may be greatly underestimated since the numbers are drawn from the national exposure rather than from much higher average exposures in Kansas.

**Midwest Radon**

a division of AAIR Professionals, Inc.

(913) 780-2000*Radon Specialists since 1987**website: **AAIR.COM****Certified by NRPP, NRSB and SPPI.**fax: (913) 780-0139**25005 W. 129 Terr., Olathe, KS. 66061*

In Kansas, I've seen at times improvement in the consulting practices of local inspectors and realtors due to state outreach efforts for education. However with a high turnover rate in these industries and a natural reticence to spend valuable time on "questionable" education, the progress takes one step forward and then drops two steps back.

Under all of these circumstances, I see no responsible course of action than to recommend you support the approval of Senate Bill 577.

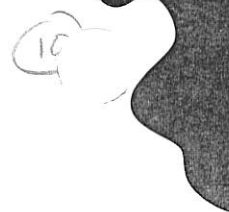
(In addition, as a person who's volunteer efforts have extended well beyond Kansas, I have not met in my travels a more capable group of people than those at the Kansas Radon Program. I've been lucky in this regard. I fully trust that their guidance will be fair to all related industries and successful for the benefit of public health.)

Sincerely,

Gary Hodgden
Kansas citizen and small business owner
President: AAIR Professionals, Inc.
913-780-2000 800-364-7155
25005 W. 129th Terr. Olathe, KS. 66061
gary@air.com

Or:
Executive Stakeholder Committee Chairperson
The AARST Consortium on National Radon Standards
Sponsored by the American Association of Radon Scientists and Technologists.

Websites: aarst.org or radonstandards.us
Standards Email: standards@aarst.org



To: Senate Federal and State Affairs Committee

From: Luke Bell, KAR Director of Governmental Relations

Date: February 14, 2008

Subject: **SB 577** – Requiring Additional Disclosures on Radon Gas in Real Estate Transactions, Requiring Mandatory Testing for Radon Gas in Real Estate Transactions and Enacting Certification Requirements for Individuals Testing and Mitigating Radon Gas

Chairman Brungardt and members of the Senate Federal and State Affairs Committee, thank you for the opportunity to appear today on behalf of the Kansas Association of REALTORS® (KAR) to offer testimony in opposition to **SB 577**. KAR has faithfully represented the interests of the 10,000 real estate professionals and over 700,000 homeowners in the State of Kansas for over 85 years.

SB 577 would make major changes to existing state law concerning the disclosure, testing and mitigation of radon gas in this state. In summary, this legislation would create new radon disclosure requirements including a new separate radon disclosure form and brochure developed by the Kansas Department of Health and Environment (KDHE), require mandatory testing for radon gas in all real estate transactions and require all individuals who perform radon tests or mitigation to be certified by KDHE.

Existing State Law Requires Sellers and Real Estate Licensees to Disclose to the Buyer Any Known Material Defects in the Property Subject to a Real Estate Transaction Including Elevated Levels of Radon Gas

Existing state law requires sellers to disclose material facts to the buyer of real property when the seller has knowledge of a defect in the property that is not within the fair and reasonable reach of the buyer. In a real estate transaction, this information is typically disclosed to the buyer by the seller in the Seller's Property Disclosure Statement.

As part of the Seller's Property Disclosure Statement, the seller lists any known material defects that exist in the property at the time the form is completed. In this statement, the seller provides disclosures to the buyer on the condition of various conditions in the property ranging from the functionality of household appliances to the existence of lead-based paint or radon gas in the property.

In addition, K.S.A. 2003 Supp. 58-30,106(d)(1) requires real estate licensees to disclose to the buyer all adverse material facts actually known by the licensee, including but not limited to any environmental hazards or physical defects in the property (which includes radon gas). Thus, if the real estate licensee has actual knowledge that the property has elevated concentrations of radon, the real estate licensee must disclose this information to the buyer.

785.267.3610
VOICE

800.366.0069
TOLL FREE

785.267.1867
FAX

3644 SW
Topeka, Ka
www.kansasre
Sen Fed & State
Attachment 10
2-14-08

Consequently, if either the seller or the real estate licensee has any actual knowledge of elevated levels of radon gas in the property (including past test results or inspection reports), they are obligated under current state law to disclose this information to the buyer. Therefore, existing state law already requires sellers and real estate licensees to provide any known information concerning radon gas to buyers in all real estate transactions.

Proposed Disclosure Requirements Are Unnecessary Since Existing State Law Already Requires Disclosure of Information Pertaining to Radon Gas Concentrations

Section 1(d)(1) would require the seller to disclose any information known to the seller that shows elevated concentrations of radon gas in the property and provide the buyer with all available records and reports pertaining to radon gas concentrations in the property. Both sellers and real estate licensees already have an obligation under existing state law to disclose all "known adverse material facts" to buyers in a real estate transaction, including radon gas concentrations.

Therefore, the proposed disclosure requirements under Section 1(d)(1) are unnecessary since they needlessly duplicate and restate disclosure requirements that are already required under existing state law. This language would not increase the amount or quality of information on radon gas concentrations that is provided to buyers by sellers in real estate transactions. Instead, this language would simply add an additional layer of bureaucracy into the real estate transaction process.

Proposed Disclosure and Testing Requirements Specify Two Different and Inconsistent Time Requirements for the Same Disclosure by the Seller

The language in Section 1(d)(1) and (e)(1) proposes to impose new disclosure and testing requirements on the seller at two different and inconsistent times in the real estate transaction. In Lines 23 and 24 on Page 1, this legislation would require the seller to provide this new disclosure to the buyer prior to entering into a contract for the sale of the property.

However, in lines 36 through 40 on Page 1, this legislation would require the seller to provide this exact same disclosure to the buyer after the buyer has made an offer to purchase the property but before the seller has accepted the buyer's offer to purchase the property. If the seller did not provide this disclosure to the buyer before the buyer made an offer to purchase the property, this legislation would allow the buyer to unilaterally amend his or her offer to purchase the property.

As a result, the language in lines 36 through 40 essentially requires the seller to provide this information to the buyer before the buyer has made an offer to purchase the property. However, we are genuinely confused as to how these disclosures can be provided to the buyer when the seller typically is not aware that the buyer is interested in making an offer to purchase the property.

If the buyer has not submitted an offer to purchase the property to the seller or the seller's agent, it is highly unlikely that the seller is even aware that the buyer is interested in making an offer to purchase the property. If the seller is not aware that the buyer is interested in making an offer to purchase the property, it is furthermore highly unlikely that they will have the necessary means to either make contact with or provide information to the buyer or buyer's agent.

Therefore, it is clear that the language in Section 1(d)(1) imposing new disclosure requirements is ambiguous and lacks the clarity that is needed to provide clear guidance to sellers and real estate licensees on when this information must be provided to the buyers of residential real property.

All Other Required Disclosures in the Real Estate Transaction Process Are Required Prior to the Parties Entering into the Contract to Purchase the Property and Are Subject to Discussion by the Parties During Contract Negotiations

As mentioned earlier, existing state law requires both sellers and real estate licensees to disclose to buyers all adverse material facts during the course of the real estate transaction, including but not limited to any environmental hazards or physical defects in the property (which includes radon gas).

However, in direct contract to the proposed requirements in this legislation, literally all other required disclosures in the real estate transaction process are only required prior to the parties entering into the contract to purchase the property. Once these disclosures have been made, the information disclosed becomes part of the contract negotiation process.

By providing these disclosures during the contract negotiation process, the parties have the ability to review and discuss this information at the most appropriate time in the real estate transaction. Especially in the current challenging real estate market, buyers consistently are in a very advantageous position to require the seller to mitigate any elevated concentrations of radon gas before the transfer of the property.

No Other State Requires Mandatory Testing for Radon Gas and There is No Other Required Testing in a Real Estate Transaction for Other Property Conditions (Including Lead-Based Paint)

Based on the research I have conducted on this issue over the last several years, there are currently no other states that require mandatory testing for radon gas in the real estate transaction. Furthermore, there are no other mandatory tests or inspections that must be conducted in real estate transactions in the State of Kansas (including for the presence of lead-based paint).

Literally every other test or inspection performed in connection with a real estate transaction is performed either prior to or subsequent to the parties entering into a contract for the purchase of the property. For the most part, residential real estate contracts in this state include language that makes the sale of the property contingent on a satisfactory inspection or testing of the home.

Under this language, the buyer has the option of conducting independent inspections for various environmental hazards and property conditions at their own expense. If these inspections identify any environmental hazards or adverse property conditions in the property, the seller typically contracts to pay for a specified amount of repairs or hazard mitigation on the property.

Even though the proponents of this legislation argue that elevated concentrations of radon gas represent a health hazard in residential properties, tests and inspections for literally all other potentially hazardous property conditions such as termite infestation, mold contamination and the presence of lead-based paints are conducted through this standard process in the real estate transaction.

Allowing Sellers to Conduct Their Own Testing for Radon Gas With At-Home Test Kits Would Create Major Conflict of Interest Problems

In Section 1(e)(1), this legislation would require the seller to complete and disclose a mandatory radon test to the buyer prior to the signing of the contract to purchase starting in July 2011. The legislation establishes several different mechanisms whereby sellers could meet this requirement.

Even though the seller has the discretion to choose a mechanism, the testing must be done under at least one mechanism. Under Section 1(e)(1)(A) would allow the seller to perform an at-home test on the property using a test approved by rules and regulations of KDHE.

Unfortunately, allowing sellers to conduct their own testing for elevated concentrations of radon gas would create major conflict of interest problems in the real estate transaction process. Even brochures published by the Kansas Radon Program on Pages 5 through 6 question the validity and reliability of radon measurements under this approach because the potential for test tampering is high when test conditions are controlled by the seller, who has a clear interest in a low test result.

When the seller is allowed to exercise complete control over this process by conducting an at-home test for elevated concentrations of radon gas, it increases the risk that the seller will exploit this conflict of interest by tampering with the results of the testing. According to these same brochures published by the Kansas Radon Program, having the test conducted by a certified radon professional is the best bet for conducting a valid and reliable test for radon gas.

Avoiding this clear conflict of interest and ensuring the most accurate results is the reason that all tests and inspections for literally all other potentially hazardous property conditions such as termite infestation, mold contamination and the presence of lead-based paints are obtained and controlled by the buyer in the real estate transaction process. Allowing the seller to conduct their own testing for radon gas would create major conflict of interest problems.

Proposed Certification Requirements for Individuals Who Test For or Mitigate Radon Gas in Sections 3 Through 8 Are Overly Broad, Unclear and Incomplete

Furthermore, Sections 3 through 9 would require all individuals who conduct radon gas testing or mitigation to be certified by KDHE. However, unlike in other state statutes that regulate certain professions and occupations, this legislation does not specify the actual requirements that an individual must undertake in order to become certified under the act. Instead, KDHE would be granted essentially unlimited authority to adopt rules and regulations to establish the certification requirements.

As with nearly all other regulated professions and occupations in this state, any requirements for certification under this act need to be specifically established by the Kansas Legislature and specified in the enabling legislation. The language as it is currently written provides no guidance on the maximum amount of fees that could be levied for certification under this act, the qualifications for individuals who would like to be certified under this act and the standards of practice that will govern individuals who are certified under this act.

Proposed Language in Section 7 Would Require the Results of All Radon Tests and Radon Reports to Be Filed with KDHE; These Requirements Would Be Extremely Burdensome and It is Unclear on How This Information Will Be Utilized

Finally, Section 7 would require any individual who tests for radon gas, analyzes radon testing devices or performs radon mitigation to submit a report detailing the test, analysis or mitigation to KDHE within 30 days of the performance. Based on a preliminary examination of the legislation, it is unclear whether KDHE would be able to handle the massive amounts of information that would be submitted under this section or how this information would be utilized.

Radon in Home Buying and Selling

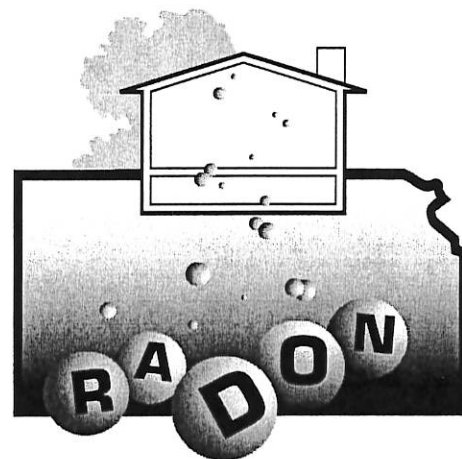
Radon testing during a real estate transaction

Radon testing may soon become a typical step in every real estate transaction. In many areas of the country it already is. Firms that handle employee relocation sales for large corporations almost universally require a radon test and, if necessary, that radon reduction work be done before taking possession of an employee's property.

In a 1987-1988 Kansas Department of Health and Environment/U.S. Environmental Protection Agency radon survey of 2,031 homes in Kansas, the average radon level was 3.2 picocuries per liter (pCi/l) of air. More than 25 percent of the homes measured had short-term (two-day average) radon levels greater than 4 pCi/l, a level that warrants further action. In some areas of Kansas, the percentage of homes with test results more than 4 pCi/l exceeded 40 percent.

With approximately 800,000 single-family dwellings in Kansas, the potential exists for up to 200,000 of them to be candidates for additional radon testing. Perhaps half of these - 100,000 homes - can be expected to be confirmed, by the additional testing, to be in need of radon-reduction work.

The only way to know if a home has a radon problem is to test. You can't predict radon levels based on location, foundation type, age of construction, tightness of house, or on almost any other factor of which you can think.



Kansas Radon Program Engineering Extension • Kansas State University

In public opinion surveys, there has been significant support for dealing with radon at the time of real estate transactions.

Buyers usually instigate the testing. If radon levels are unacceptably high (i.e. 4 pCi/l or more), they want to know. The buyer may pay for the cost of the test, but expects the seller to pay for the radon-reduction system, if necessary. The buyer may also want to know radon levels in an area of the home the seller might not otherwise test.

The seller or realtor can be held legally liable when either one knows the radon level in the house or fails to reveal, in a reasonable fashion, information that may be important to a buyer making decisions.

A neighbor's radon reading cannot substitute for a reading in your home. Only testing can provide you with a level of confidence about the potential radon exposures you face.

**Test
your
home!**

• Seller Conducted Tests
Not Ideal

Radon in Home Buying and Selling

"The best approach you can take as a homeowner is to conduct a short-term screening...."

Surgeon General of the United States Health Advisory:

"Indoor radon gas is a national health problem. Radon causes thousands of deaths each year. Millions of homes have elevated radon levels. Most homes should be tested for radon. When elevated levels are confirmed, the problem should be corrected."

Questions of validity and reliability of radon measurements are often raised because the potential for test tampering is high when test conditions are controlled by the seller, who may have an interest in a low test result.

Having the test conducted by a radon professional measurement specialist listed in a national Radon Measurement Proficiency program, such as National Environmental Health Association (NEHA) or National Radon Safety Board (NRSB), is the best bet for a valid test. If a qualified testing service is not available, and you elect to do the testing yourself, be sure to follow test kit instructions carefully.

Testing for radon and, if necessary, fixing a home that has a high level, may be stumbling blocks in the compressed time frame of real estate transactions. This is especially true if the issue is raised late in the process, such as the week before closing. Getting a reliable test that satisfies both buyer and seller is not too difficult in most urban areas, but may be an obstacle in rural areas of Kansas.

If a reliable test comes back high and radon reduction work is needed, getting that work accomplished in the time before closing can be difficult, regardless of location.

Although radon reduction costs the same as repairs for many other home-related problems, sellers may, due to inexperience, believe that radon problems are not as easily fixable and, as a result, may permanently threaten the value of the home even after all possible reduction has been accomplished.

This misconception has led to tampering with measurement devices or test conditions to achieve low test results.

Surveys have shown that radon does not significantly influence the value of homes once mitigation systems are installed.

The best approach you can take as a homeowner is to conduct a short-term (two to five days) measurement, preferably during the heating season. If the results are more than 4 pCi/L, follow up with either a long-term test or a second short-term test. The higher your initial short-term result, the more certain you can be that you should take a short-term rather than a long-term follow-up. Save the results so the information can be made available to a prospective buyer. Take action to reduce levels if the results are higher than 4 pCi/L. This will reduce your personal risk and the likelihood that radon will be a problem in the eventual sale of your home.

Advance testing makes disclosure to the buyer more convenient and may expedite the negotiating and sale or purchase process. The long-term test results will give the best indication of health risk and will avoid having to rely on a last moment short-term test, which often will yield less accurate results.

If you are buying a home, there is no reason not to buy one with a radon problem if it meets many or all of your other criteria. Typical radon-reduction costs much the same as other home repairs (from \$800 to \$2,000). Because increased risk comes from long-term exposure, there is ample time to reduce radon levels before you spend significant time (months and years) in the same home.

For more information, call the Kansas Radon Program at 1-800-693-5343, or visit our Web site at <http://radon.oznet.ksu.edu>.



**STATEMENT OF THE
KANSAS BUILDING INDUSTRY ASSOCIATION
TO THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
SENATOR PETE BRUNGARDT, CHAIR
REGARDING S.B. 577
FEBRUARY 14, 2008**

Chairman Brungardt and Members of the Senate Natural Resources Committee, I am Chris Wilson, Executive Director of the Kansas Building Industry Association (KBIA). Our more than 2500 member companies are involved in the state's residential housing and commercial construction industry. We oppose S.B. 577 as unneeded.

Radon is a radioactive by-product of naturally decaying uranium. It is an odorless, tasteless, and colorless gas found in some soils, rock, groundwater, and building materials. It is constantly released into the air. Radon levels vary widely across the country and even within small geographic areas such as counties. Radon can enter buildings through cracks in the foundation and may accumulate within the buildings if there is no way to vent the gas back into the outside air. In the past, radon has received widespread coverage in the media.

The good news is that radon is something that is easily tested for and relatively easily mitigated. Radon is most present at the lowest living level of the home and is affected by ventilation.

Homebuilders today are building to the International Building Code, which provides for installation of radon mitigation measures when a home is constructed, depending on the zone they are building in. This is enforced and inspected at the local level.

The Environmental Protection Agency (EPA) worked in collaboration with stakeholders to develop its Model Construction Standards & Techniques for

Control of Radon in New Residential Construction. In this model, EPA identified two types of standards that could be incorporated into homes to reduce radon levels - passive and active. Both have different effects and costs. Passive standards are less costly and research has shown that passive standards are adequate in most parts of the country. The passive standards have been available for voluntary adoption in the Council of American Building Officials, One and Two Family Dwelling Code (CABO OTFDC) since 1994. Active standards are more expensive and typically used in homes where radon levels exceed 4 picocuries per liter or where passive systems have failed.

We believe that the radon issue is being well-addressed nationally and in Kansas through the implementation of radon-resistant techniques in new homes; testing and mitigation; education; disclosure in the real estate transaction. In the real estate transaction process, radon should be treated similarly to other environmental issues such as mold and lead-based paint. This meets the need for disclosure and consumer education and provides for testing and negotiation between buyer and seller without an unfunded mandate that is not required or desired by either.

This bill addresses new construction, which is most likely to have radon mitigation in place, and yet doesn't address multi-family housing or housing for the aging. If there's a population that has heightened exposure to radon, it would be those in homes for the aging where they are in the facility a large percentage of the time.

Any standards should be based on sound scientific studies, be cost-effective and be implemented through the model code process. State laws should eliminate liability when homes are built to these model code standards.

Kansas does not have a statewide building code, because the codes are adopted at the local level, to provide for local climate and other differences.

Kansas should maintain a voluntary disclosure policy of the possible presence of radon in new homes at the point of sale if the homes are built to meet radon code requirements.

We support voluntary use of residential radon construction standards in building codes, statutes, or regulations.

Thank you for the opportunity to comment regarding S.B. 577.

####



Radon

<http://www.epa.gov/radon/construc.html>
Last updated on Monday, October 29th, 2007.

You are here: [EPA Home](#) [Air](#) [Indoor Air Quality](#) [Radon](#) Radon-Resistant New Construction

Radon-Resistant New Construction

Related Resources

Why Should You Build Homes with Radon-Resistant Techniques?

They Make Homes Safer from Radon!

- These construction techniques help block radon from entering the home. The occupants will benefit from lower radon levels in their new home.
- They are easy to upgrade when there is a need to increase the radon reduction.
- If high radon levels are found, the techniques allow for easy and inexpensive installation of a fan for increased radon reduction in the home. Every new home should be tested for radon by the homeowner after occupancy.
- They are cost-effective for home buyers
- It is more cost-effective to include radon-resistant techniques while building a home, rather than installing a radon reduction system in an existing home.
- For example:
 - Materials and labor costs for Radon-Resistant Techniques vs. Retrofitting an Existing Home is \$350 - \$500 vs. \$800 - \$2,500 (*a 128% to 400% saving!*)
- Some construction companies successfully use this as a marketing advantage.
- They may improve the home's energy-efficiency
- Radon-resistant construction techniques are consistent with state-of-the-art energy-efficient construction. When using these techniques, follow the Model Energy Code (or other applicable energy codes) for weatherization, which will result in energy savings and lower utility bills.

"Building Radon Out: A Step-by-Step Guide on How to Build Radon-Resistant Homes" (PDF, 84 pp, 8.3MB, [About PDF](#))

Basic Information on RRNC

Building a New Home: Have You Considered Radon?

Model Standards and Techniques for Control of Radon in New Residential Buildings

Radon Resistant Construction Architectural Drawings (Available as a 522K executable file for use with CAD programs and a PDF Version (PDF, 4 pp, 962KB, [About PDF](#)))

What are Radon-resistant construction techniques?

The techniques may vary for different foundations and site requirements, but the basic elements are:

A. Gas Permeable Layer

This layer is placed beneath the slab or flooring system to allow the soil gas to move

freely underneath the house. In many cases, the material used is a 4-inch layer of clean gravel.

B. Plastic Sheetting

Plastic sheeting is placed on top of the gas permeable layer and under the slab to help prevent the soil gas from entering the home. In crawlspaces, the sheeting is placed over the crawlspace floor.

C. Sealing and Caulking

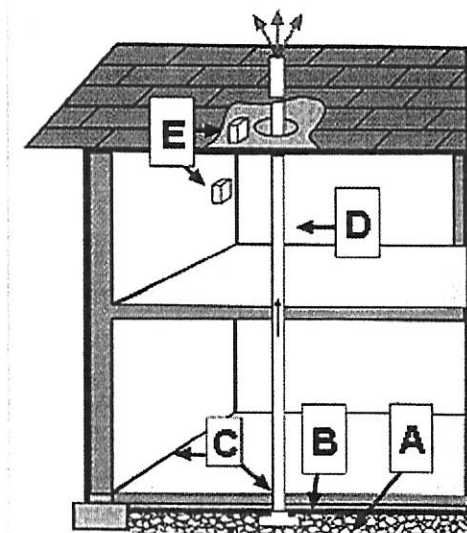
All openings in the concrete foundation floor are sealed to reduce soil gas entry into the home.

D. Vent Pipe

A 3- or 4-inch gas-tight or PVC pipe (commonly used for plumbing) runs from the gas permeable layer through the house to the roof to safely vent radon and other soil gases above the house.

E. Junction Box

An electrical junction box is installed in case an electric venting fan is needed later.



How Many Homes Are Built With Radon-Reducing Features?

Based on an annual home builder survey conducted by the National Association of Home Builders (NAHB) Research Center:

- 5.8% of approximately 1,124,000 single-family detached homes built during 2001 incorporated radon-reducing features, which translates to about 65,000 homes. This brings the cumulative total of single-family detached homes built with radon-reducing features since 1990 to over one million homes.
- 11.7% of approximately 255,000 single-family detached homes built in Zone 1 (homes with high radon potential) during 2001 incorporated radon-reducing features, which translates to nearly 30,000 homes. This brings the cumulative total of single-family detached homes built in Zone 1 with radon-reducing features since 1990 to over 600,000 thousand.*

* These results exclude homes built on pier-style foundations.

If you have further questions about Radon, please call your [State Radon Contact](#) (just click on your state) or the National Radon Information Line at:

1-800-SOS-RADON
[1 (800) 767-7236]



Radon

<http://www.epa.gov/radon/pubs/mitstds.html>
Last updated on Monday, October 29th, 2007.

You are here: [EPA Home](#) [Air](#) [Indoor Air Quality](#) [Radon](#) [Publications](#) [Recommended Residential Radon Mitigation Standard of Practice](#)

Recommended Residential Radon Mitigation Standard of Practice

EPA recommends the ***Standard Practice for Installing Radon Mitigation Systems in Existing Low-Rise Residential Buildings**** for residential radon mitigation (EPA 402-K-03-007). This voluntary, consensus-based standard was developed and issued by the American Society for Testing and Materials International, and is identified as **ASTM E-2121**.

The Agency first cited **ASTM E-2121** in 2003 as a national consensus standard appropriate for reducing radon in homes as far as practicable below the national action level of 4 picocuries per liter (pCi/L) in indoor air. As of May 2006, EPA no longer recommends, and will no longer distribute its own, superseded *Radon Mitigation Standards* (EPA 402-R-93-078, Revised April 1994).

- A single free hard (printed) copy of the ASTM E-2121 standard is available from EPA's National Service Center for Environmental Publications (NSCEP). You can order a copy by phone at 1-800-490-9198, via E-mail nscep@bps-lmit.com, or via the internet at www.epa.gov/nscep/ordering.htm. Please use the EPA document number (402-K-03-007) when ordering E-2121. EPA reprints E-2121 under agreement with ASTM International.
- Copies of the standard may be purchased from ASTM International at www.astm.org/cgi-bin/SoftCart.exe/index.shtml?E+mystore [\[EXIT Disclaimer\]](#), or from the American National Standards Institute (ANSI) at www.ansi.org/ [\[EXIT Disclaimer\]](#).

*E-2121-03 (February 10, 2003), American Society for Testing and Materials (ASTM) International; an American National Standards Institute (ANSI) approved consensus standard.



Radon

<http://www.epa.gov/radon/realestate.html>
Last updated on Monday, November 5th, 2007.

You are here: [EPA Home](#) [Air](#) [Indoor Air Quality](#) [Radon](#) Radon and Real Estate

Radon and Real Estate

EPA, with cooperation from its radon partners, has developed a number of tools and resources for use by the real estate community:

- [Revised Home Buyer's and Seller's Guide](#)
- [Breathing Easy: What Home Buyers and Sellers Should Know About Radon](#)
- [Federal Housing Commissioner takes action on radon](#)
- [Financing Residential Radon Mitigation Costs: the HUD 203\(k\) Mortgage Insurance Program](#)
- [American Society of Home Inspectors \(ASHI\) Radon Mitigation System Inspection Checklist](#)
- [How to Find a Qualified Radon Service Professional in Your Area](#)

Home Buyer's and Seller's Guide to Radon

EPA has updated its *Home Buyer's and Seller's Guide to Radon* (EPA 402-K-07-009, Revised May 2007). This guidance is also available in Spanish (www.epa.gov/radon/pubs/hmbyguidsp.html) The updated 38-page *Guide* includes a number of changes, among them:

- information on the 1998 National Academy of Sciences BEIR VI radon report;
- revised sections on [radon-in-water](#) and [radon-resistant new construction](#);
- an expanded section on where to get copies of the *Guide* and other radon and Indoor Air Quality (IAQ) information and documents;
- an up-to-date listing of [state radon and EPA regional office contacts](#);
- a section on radon related Hotlines; information on EPA's radon (and IAQ) websites; and,
- an Index.

This edition also reflects the closing of the U.S. EPA Radon Proficiency Program, and advises what consumers should look for in a [qualified radon services provider](#). The *Guide* has been designed to be more readable, with improved cross-references.

Breathing Easy: What Home Buyers and Sellers Should Know About Radon

The video satisfies a long-standing need for a short visual educational tool on how to best include radon in residential real estate transactions. With a bit of light humor, the video

Essential Radon Resources



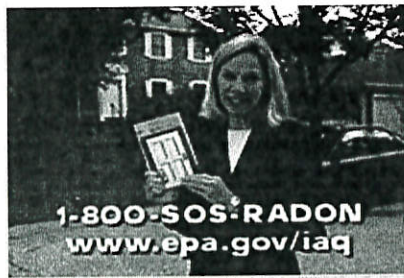
Read the: "Home Buyer's and Seller's Guide to Radon"

Also read "A Citizen's Guide To Radon"

If you have further questions about Radon, please call your State Radon Contact (just click on your state), or contact the **National Radon Information Line at: 1-800-SOS-RADON [1-800-767-7236]**

Get a discounted Radon Test Kit from the National Safety Council www.nsc.org/issues/radon/radonkitcoupons.pdf

[EXIT Disclaimer](#)



covers the basics, including radon science, the lung cancer risk, home inspection, building a new home radon-resistant, testing and fixing a home, disclosure, state radon offices, hotline and web resources, and key radon numbers, e.g., EPA's action level and the U.S. indoor and outdoor averages.

The primary audiences are home buyers and sellers, and real estate sales agents and brokers. Home inspectors, mortgage lenders, other real estate practitioners, and radon services providers will also find the video helpful. Single copies of the video are in VHS, CD, and DVD formats [ask for (EPA 402-V-02-003) (TRT 13.10)].

Federal Housing Commissioner takes action on radon

In 2004, Dr. John C. Weicher, the Federal Housing Commissioner issued a radon gas and mold Notice (H 2004-08) requiring that a release agreement (HUD-9548-E) be included in all sales contracts for HUD-acquired single family properties. The agreement notifies purchasers of the potential health problems caused by exposure to radon and some molds. Required use of the agreement expired on May 31st 2005. In fiscal year 2004 HUD sold about 78,000 Real Estate Owned (REO) single-family properties. [View the Commissioner's Notice \(H-2004-08\)](#) [EXIT Disclaimer](#) and download the release agreement (HUD-9548-E - a MS Word file) at www.hudclips.org/sub_nonhud/cgi/pdf/forms/9548-e.doc [EXIT Disclaimer](#)

In a 2004 letter, Dr. John C. Weicher, the Federal Housing Commissioner at HUD informed Federal Housing Administration (FHA) mortgagees that its home inspection form (HUD 92564-CN) had been revised. The new form now includes information on radon in indoor air which reiterates the EPA and U.S. Surgeon General testing recommendation and refers readers to EPA's 1-800-SOS-Radon hotline. The form is mandatory for all FHA insured mortgages. Homebuyers must sign the form before/at the time a sales contract is executed. In fiscal 2003 HUD issued about 1.3 million FHA insured loans.

- View the [Commissioner's Letter PDF](#) (PDF, 2 pp, 77KB [About PDF](#)) and
- the [Home Inspection Form PDF](#) (PDF, 1 page, 83KB [About PDF](#)) (HUD 92564-CN).

Financing Residential Radon Mitigation Costs: *Using the HUD 203(k) Mortgage Insurance Program to Reduce the Risk of Lung Cancer in People.*

The Section 203(k) mortgage financing program is the Housing and Urban Development's (HUD) primary tool for rehabilitating and improving single family homes. The program allows home buyers to finance the purchase *and* repair or improvement of a home using a single mortgage loan. Reducing radon levels in a home is an improvement that can be financed through a 203(k) mortgage loan.

Part of the 203(k) mortgage proceeds must be used to pay the costs of rehabilitating or improving a residential property. To qualify, the total cost of the eligible repairs or improvements, including fixes to reduce radon levels, must be at least \$5,000. The 203(k) program is an important tool for expanding home ownership, revitalizing homes, neighborhoods and communities, and for making homes healthier and safer for those who occupy them.

Homes eligible for 203(k) financing include:

1. one to four-family dwellings that have been completed for at least one year;
2. dwellings that have been demolished, provided some of the existing foundation system remains; and,
3. converting a one-family dwelling into a two, three, or four-family dwelling; or, alternatively, converting an existing multi-unit dwelling into a one to four-family unit.

The 203(k) program has been used successfully by many lenders to rehabilitate properties through partnerships with state and local housing agencies, and with non-profit organizations. To further help borrowers buy homes, lenders have found innovative ways to combine the 203(k) program with other financial resources like HUD's HOPE and Community Development Block Grant Programs.

Contact an FHA-approved lender in your area for more information about HUD's 203(k) program, or if you're interested in getting a 203(k) insured mortgage loan. Check your phone directory's blue pages for the HUD office nearest you; they can get you a list of the 203(k) approved lenders in your area.

American Society of Home Inspector's (ASHI) Radon Mitigation System Inspection Checklist

Home inspectors have a new service to offer their home inspection clients; radon mitigation system inspections. The tool that makes this possible is the [Radon Mitigation System Inspection Checklist PDF](#) (PDF, 2 pp, 43KB [About PDF](#)), created by the American Society of Home Inspectors (ASHI), in cooperation with the EPA's Indoor Environments Division. The *Checklist* promotes radon awareness, testing and mitigation with people who are having their home, or prospective home, inspected. With just seven inspection elements, the *Checklist* takes under 15 minutes to complete. Inspectors can easily integrate it into a general home inspection. The inspection results indicate whether the home has a mitigation system, and if so, whether the system is active or passive. It also encourages the consumer to verify that indoor radon levels are below 4 pCi/L, and to consult a qualified mitigator if the inspection notes any apparent deficiencies.

The Checklist was constructed using several sources, including EPA technical radon mitigation and radon-resistant documents, and radon inspection checklists used by state radon programs, e.g., Pennsylvania, New Jersey and Iowa. It was also field tested by ASHI and reviewed by the state radon programs. The *Checklist* includes information on radon risks, the NAS radon report, ASHI and EPA websites,. The *Checklist* also encourages consumers who have questions to contact their [state radon office](#). ASHI's 5,000+ members will be sent copies of the *Checklist*. This *Checklist* is also available via [ASHI's website](#) ([EXIT Disclaimer](#)).

For more information on radon and real estate, contact [Philip Jalbert](#) jalbert.philip@epa.gov (202) 343-9431.

How to Find a Qualified Radon Service Professional in Your Area

1. **Contact your State Radon Contact** to determine what are, or whether there are, requirements associated with providing radon measurement and or radon mitigations/reductions in your State. Some States maintain lists of contractors available in their state or they have proficiency programs or requirements of their own.

2. Contact one or both of the two privately-run Radon Proficiency Programs

(listed here alphabetically) who are offering proficiency listing/accreditation/certification in radon testing and mitigation. (Reference herein to any specific commercial products, process, or service by trade name, trademark, manufacturer, or otherwise, does not necessarily constitute or imply its endorsement, recommendation, or favoring by the United States Government.)

- **The National Environmental Health Association (NEHA)**

National Radon Proficiency Program

Website: www.neha-nrpp.org/ EXIT Disclaimer

Toll Free: (800) 269-4174 or

(828) 890-4117

Fax: (828) 890-4161

E-Mail Address: angel@neha-nrpp.org

NEHA-NRPP Administrative Office

P.O. Box 2109

Fletcher, NC 28732

- **The National Radon Safety Board (NRSB)**

Toll Free: (866) 329-3474

Fax: (914) 345-1169

WebSite: www.nrsb.org EXIT Disclaimer

E-mail Address: info@NRSB.org

14 Hayes Street

Elmsford, NY 10523

Residential Measurement Providers Servicing Kansas

State and local agencies may have requirements in addition to NEHA's

S=Standard S/A=Standard & Analytical

Total found meeting search criteria: 69

| CITY AND STATE OF RESIDENCE | NAME / STANDARD INFO | | SERVICE TYPE | PHONE # |
|-----------------------------------|---|-----------------------------|-----------------|-------------------|
| Bel Aire,KS | <u>Jack Koelling</u> <u>Advantage Home Inspections, LLC</u> | | S/A | (316) 744-9990 |
| Canton,KS | <u>Gary Boesker</u> <u>Boesker Home Inspections, Inc.</u> | Speaker Bureau Member | S/A | (800) 646-0064 |
| Derby,KS | <u>Brent M Topham</u> <u>First Choice Home Inspections, Inc</u> | | S/A | (316) 361-0377 |
| Garden City,KS | <u>Ronald J. Naab</u> <u>HomePro of Kansas, Inc.</u> | | S | (620) 276-6438 |
| Garden Plain,KS | <u>Amos Cape</u> <u>Pillar to Post Professional Home Inspection</u> | | S/A | (316) 531-2658 |
| Hesston,KS | <u>Dan Billings</u> <u>Heartland Environmental</u> | | S/A | (888) 553-0404 |
| Hutchinson,KS | <u>Roger Dickinson</u> <u>Doubletree Property Inspections</u> | | S | (866) 571-2876 |
| Hutchinson,KS | <u>Ray A Brooks</u> <u>Brooks Home Inspection Service</u> | | S | (620) 663-2679 |
| Kansas City,KS | <u>Patrick C. George</u> <u>Custom Home Inspections</u> | | S/A | (816) 753-1717 |
| Kansas City,KS | <u>Vince Johnson</u> <u>Custom Home Inspections</u> | | S/A | (816) 753-1717 |
| Kansas City,KS | <u>Bruce Kelly</u> <u>Custom Home Inspections</u> | | S/A | (816) 753-1717 |
| Kansas City,KS | <u>Greg Patterson</u> <u>Custom Home Inspections</u> | | S/A | (816) 753-1717 |
| Kansas City,KS | <u>Dr. John S. Neuberger</u> <u>Dept. of Preventive Medicine & Public Health</u> | | S | (913) 588-2745 |
| Lawrence,KS | <u>Joe W. McKinney</u> <u>Safeguard Radon</u> | | S/A | (866) 354-4404 |
| Leavenworth,KS | <u>John Schukman</u> <u>At Home Inspection</u> | | S | (913) 547-1751 |
| Leawood,KS | <u>Michael R. Faulconer</u> <u>The Home Team Inspection Services</u> | | S/A | (913) 642-3515 |
| Louisburg,KS | <u>Jim Holiday</u> <u>Advanced Radon Services</u> | | S/A | (913) 489-1427 |

| | | | | |
|------------------|--|-----------------------------|-----|-------------------|
| Louisburg,KS | <u>Scott Home Inspections</u> <u>Scott Home Inspections</u> | | S | (913) 533-2442 |
| Manhattan,KS | <u>Lyn S. Toburen</u> <u>Toburen Home Inspection Service, Inc.</u> | | S | (785) 587-8447 |
| Manhattan,KS | <u>Craig M. Celmer</u> <u>HDH Radon Measurement and Mitigation Services</u> | Speaker Bureau Member | S/A | (785) 539-2596 |
| Manhattan,KS | <u>Dave Carrara</u> <u>Flint Hills Home Inspections</u> | | S | (785) 556-0238 |
| Newton,KS | <u>Brent Voran</u> <u>Voran Home Inspections, Inc.</u> | Speaker Bureau Member | S/A | (316) 283-1072 |
| Olathe,KS | <u>Gary E. Hodgden</u> <u>Midwest Radon</u> | Speaker Bureau Member | S/A | (913) 780-2000 |
| Olathe,KS | <u>Garon W. Johnson</u> <u>Midwest Radon</u> | | S | (913) 780-2000 |
| Olathe,KS | <u>Wesley E. Hodgden</u> <u>Midwest Radon</u> | | S | (913) 780-2000 |
| Olathe,KS | <u>Todd J. Gorter</u> <u>Mid America Property Solutions, LLC</u> | | S/A | (913) 208-2044 |
| Olathe,KS | <u>David Darpinian</u> <u>Sunflower Home Inspections, LLC</u> | | S/A | (913) 244-7114 |
| Olathe,KS | <u>Joe Larson</u> <u>Midwest Radon</u> | | S | (913) 780-2000 |
| Olathe,KS | <u>Travis Vander Vegte</u> <u>Midwest Radon</u> | | S | (913) 780-2000 |
| Olathe,KS | <u>Thomas Krempa</u> <u>Midwest Radon</u> | | S | (913) 780-2000 |
| Olathe,KS | <u>Lawrence Banks</u> <u>Midwest Radon (AAIR Professionals, Inc.)</u> | | S | (913) 780-2000 |
| Overland,KS | <u>Travis Finnegan</u> <u>Evans Remodeling</u> | | S | (913) 649-7603 |
| Overland Park,KS | <u>Michele S. Allen</u> <u>Sweet Home Inspections, Inc.</u> | | S | (913) 894-5893 |
| Overland Park,KS | <u>James P. Allen</u> <u>Sweet Home Inspections, Inc.</u> | | S | (913) 894-5893 |
| Overland Park,KS | <u>Gerdan (Bud) Davis</u> <u>Davis Home Inspection</u> | | S/A | (816) 210-3333 |
| Paola,KS | <u>John Clason</u> <u>Crown Home Inspections</u> | | S | (866) 427-6962 |
| Shawnee,KS | <u>Miki Mertz</u> <u>Complete Home Inspection</u> | | S | (913) 268-0222 |
| Shawnee,KS | <u>Wade P. Broussard</u> <u>Highest Standard LLC</u> | | S | (913) 631-9100 |
| Spring Hill,KS | <u>Randy Sipe</u> | | S | (913) |

| | | | |
|------------------------|--|-----------------------------|----------|
| | <u>Family Home Inspection Services Inc.</u> | | 856-4515 |
| Stillwell,KS | <u>Julia A. Norris</u> | S/A | (913) |
| | <u>Norris Radon Testing Service</u> | | 897-4333 |
| Stilwell,KS | <u>William A. Slentz</u> | S/A | (913) |
| | <u>Mid America Radon Testing, Inc.</u> | | 469-1997 |
| Stilwell,KS | <u>Robin L. Slentz</u> | S/A | (913) |
| | <u>Mid America Radon Testing, Inc.</u> | | 469-1997 |
| Topeka,KS | <u>Todd A. Finley</u> | S/A | (785) |
| | <u>Radon Diagnostic & Management Services</u> | | 224-8948 |
| Topeka,KS | <u>Roger J. Dahlby</u> | S | (785) |
| | <u>Advanced Environmental Services</u> | | 231-9324 |
| Topeka,KS | <u>Todd Allen Smith</u> | S | (785) |
| | <u>Dr. Radon</u> | | 215-3776 |
| Wellington,KS | <u>Don Scott</u> | S | (620) |
| | <u>Firehouse Home Inspections</u> | | 326-3483 |
| Wichita,KS | <u>Kerry D. Parham</u> | Speaker Bureau Member | (316) |
| | <u>Terra Inspections, Inc.</u> | S/A | 722-2999 |
| Wichita,KS | <u>Tom F. Beard</u> | Speaker Bureau Member | (316) |
| | <u>Tom F. Beard Building Insp. L.C.</u> | S/A | 773-0200 |
| Wichita,KS | <u>Eric W. Sims</u> | S/A | (316) |
| | <u>Sims Inspection Service</u> | | 683-1011 |
| Wichita,KS | <u>Steven J. Moreland, CES, CEI, CIE, CMI, CMR</u> | S/A | (316) |
| | <u>American Metropolitan Environmental, Inc.</u> | | 942-6323 |
| Wichita,KS | <u>Jeffrey A. Barnes</u> | S | (316) |
| | <u>Benchmark Property Insepctions, LTD</u> | | 393-0735 |
| Wichita,KS | <u>Lyn Tangney</u> | S/A | (316) |
| | <u>Home-Chek, Inc. of Wichita</u> | | 722-4844 |
| Wichita,KS | <u>Brian May</u> | S | (316) |
| | <u>Radon Services of Kansas LLC</u> | | 821-9611 |
| Wichita,KS | <u>Chad May</u> | S | (316) |
| | <u>Radon Services of Kansas LLC</u> | | 821-9611 |
| Wichita,KS | <u>Erik Maybee</u> | S | (316) |
| | <u>Maybee Property Inspections</u> | | 630-0003 |
| Wichita,KS | <u>Scott D. Siple</u> | S | (316) |
| | <u>Lighthouse Property Inspections</u> | | 200-5089 |
| Colorado Springs,CO | <u>Howard E. Hallman, Jr.</u> | S/A | (719) |
| | <u>The E-Quest Corporation</u> | | 473-3385 |
| Colorado Springs,CO | <u>Douglas L. Kladder</u> | Speaker Bureau Member | (719) |
| | <u>Progeny Group LTD</u> | S | 477-1714 |
| Longmont,CO | <u>Andrew H. Kramer</u> | S | (720) |
| | <u>House Check</u> | | 985-6273 |
| Glenwood,IL | <u>Mark R. Salasky</u> | S/A | (708) |
| | <u>Landauer, Inc.</u> | | 755-7000 |

Speaker
Bureau
Member

| | | | |
|-----------------|---|-----|-------------------|
| Blue Springs,MO | <u>Arthur (Bud) Drummond</u> <u>Drummond Inspection Services</u> | S | (816) 678-9015 |
| Freeman,MO | <u>Don Driggs</u> <u>Mokan Home Inspections LLC</u> | S | (816) 250-4434 |
| Kansas City,MO | <u>Brian Rawlings</u> <u>Custom Radon Solutions, LLC</u> | S | (816) 824-3388 |
| Lees Summit,MO | <u>Doug Hord</u> <u>First Choice Property Evaluations, Inc.</u> | S | (816) 554-1199 |
| Lees Summit,MO | <u>Bill Fate</u> <u>First Choice Property Evaluations Inc.</u> | S/A | (816) 554-1199 |
| St. Joseph,MO | <u>Paul Romer</u> <u>AAA Certified Home Inspections</u> | S/A | (816) 262-3008 |
| Raleigh,NC | <u>Zygmunt C. Gromadzki</u> <u>Radon Testing Labs, Inc.</u> | S/A | (919) 876-1876 |
| Ponca City,OK | <u>Larry Lake</u> <u>Lake Home Inspection</u> | S/A | (580) 762-1125 |
| Woodward,OK | <u>Lot F. Taylor</u> <u>Prairie Land Environmental Remediation</u> | S | (580) 256-1700 |



3521 SW 5th Street
Topeka, KS 66606
785-357-5256
785-357-5257 fax
kmha1@sbcglobal.net

**Testimony
Senate
Federal and State Affairs Committee**

TO: Senator Pete Brungardt, Chairman
And Members of the Committee

FROM: Martha Neu Smith
Executive Director

DATE: February 14, 2008

RE: SB 577 – Radon Awareness Law or Radon Certification Law

Chairman Brungardt and members of the Committee, my name is Martha Neu Smith and I am the Executive Director for Kansas Manufactured Housing Association (KMHA) and I appreciate the opportunity to express our concerns on SB 577.

KMHA is a statewide trade association, which represents all facets of the manufactured housing industry including manufacturers, retail centers, community owners and operators, finance and insurance companies, service and supplier companies and transporters

In preparation for this hearing I searched on-line to see what other states already have laws in place that require radon tests; I also emailed all of my counterparts and as of today, I have not been able to find another state that requires residential radon testing.

With regards to the language in the bill it is unclear to me from the definition of "Residential real property" (pg. 1, line 18-20) as to how manufactured housing is to be included. The definition states, "...interest in a manufactured housing lot". Is the intent to include a manufactured housing retail lot, a manufactured home sited on a residential lot or a manufactured home community's lots?

It is a little confusing as to when the disclosure should be given, before entering into a contract or prior to the buyer making an offer. We also have concerns about the very broad authority this bill gives the Secretary of Health and Environment. However, what I didn't find in the bill is how an individual selling their own home would know about the "Radon Testing Guidelines for Residential Real Property Transactions" which they are required to provide to the buyer.

With these concerns in mind, it seems the solution may be radon education, empowering homeowners and homebuyers about radon, radon testing and radon mitigation. Again, thank you for the opportunity to express our concerns.

Sen Fed & State
Attachment 12
2-14-08



**HOME BUILDERS ASSOCIATION
OF GREATER KANSAS CITY**



600 EAST 103RD STREET • KANSAS CITY, MISSOURI 64131-4300 • (816) 942-8800 • FAX (816) 942-8367 • www.kchba.org

Written Testimony on S.B. 577
Phil Perry, Director of Governmental Affairs
Home Builders Association of Greater Kansas City
February 14, 2008

Mr. Chairman and members of the committee, thank you this opportunity to present written testimony concerning S.B. 577. As the bill is presently written, the Home Builders Association of Greater Kansas City stands in opposition to this change in the Kansas statutes concerning radon gas and its disclosure requirements.

The legislation before you today would make major changes to existing state law concerning disclosure and testing for radon gas in newly constructed residential housing units. Under existing law, builders (sellers) are presently required, through the use of the Seller's Property Disclosure Statement, to list any known material defects that exist in the property at the time this form is completed. This form allows the builder to disclose any known defects to the property, which would include radon gas. As such, this proposed legislation would duplicate existing state law.

The proposed disclosure and testing requirements in this legislation create a confusing and burdensome requirement of the builder in terms of the timing of any disclosure of radon gas to the buyer. Section 1(d)(1) requires disclosure prior to entering of a contract for sale of the property. However, section 1(e)(1) on the same page requires the disclosure after an offer has been made on the property by the buyer but before acceptance by the builder. It is confusing, to say the least, as to when the builder is to present this information to the buyer. And under the first scenario, the builder has to present this information, essentially before he knows that prospective buyer is interested in the property.

Do Business With A Member

Sen Fed & State

Attachment 13
2-14-08

The costs and burdens that this proposed legislation will place on builders will place him at an unfair disadvantage to neighboring states. There are presently no other states that require mandatory testing for radon gas (nor for any other property conditions). As such, builders on the Kansas side of the Kansas City metro area will be at a competitive disadvantage with builders in Missouri who do not have this type of requirements. This also affects the issue of housing affordability as every increase of \$1000.00 in the price of new home removes over 1500 Kansas households from the new home market.

The how and when of disclosure of radon gas is presently covered under Kansas statutes and the any resulting negotiations for mitigation of radon should be handled during contract talks between the buyer and the builder. We ask that you reject this legislation which creates a bureaucratic nightmare for both buyers and sellers in the fragile marketplace we are now experiencing. Thank you for your time.



KANSAS ASSOCIATION OF REAL ESTATE INSPECTORS Ltd.

12601 Jayson Lane - Wichita, Kansas 67235 www.karei.org Phone: 316-393-0735 Fax: 316-777-9209

TO: Members of the Senate Federal and State Affairs Committee

FROM: Jeff Barnes, President, Kansas Association of Real Estate Inspectors

RE: SB 577 Radon Legislation

DATE: February 13, 2008

The Kansas Association of Real Estate Inspectors feels strongly that those individuals conducting radon gas measurements or remediation should be trained and tested to a minimum standard and adhere to established EPA guidelines. SB 577, however is not the bill to meet this goal. This bill places a tremendous burden on all participants in the transaction to transfer real estate and opens the door for biased and fraudulent reporting. Speaking from the standpoint of a home inspector who is currently NEHA certified to conduct radon gas measurements and a home owner, the implementation of the provisions in this bill would be incredibly burdensome to the inspection industry and would slow the sales process down by days or weeks while waiting for certified individuals to either test or remediate the home being sold. The bill also has many other statutory requirements which are subject to change by federal agencies, but leaves no room in the bill for adjustments by the states governing authority.

Regulating a transaction as complex and varied as the transfer of real estate, requires the input of all of the major stakeholders in the transaction. This would include the real estate industry, and home inspection industry, neither of which were ask to contribute to the discussion on this bill. These two industries have been able to work together to develop language for a bill to regulate the home inspection industry while providing highly praised protections for the home buying public. With input from these industry leaders the radon issue could also be addressed in a way to provide protections for the people of Kansas without over burdening a system which could not possible meet the mandates provided in this bill.

We believe this is a good first step in bringing awareness to this important issue, and applaud the author for pushing this issue forward, but we respectfully request your opposition to this bill. We also ask that you request the bill's author and sponsor to work with the other industries affected by this legislation. Luke Bell of the Kansas Association of Realtors and myself would be more than happy to assist the development of workable and reasonable language to provide the desired result this bill seeks.

Sen Fed & State

Attachment 14

2-14-08

SENATE BILL No. 486

By Confirmation Oversight Committee

1-28

9 AN ACT concerning appointments to certain offices; amending K.S.A.
10 17-2233, 48-203, 48-208, 65-2878, 65-34a02, 74-2113, 74-2613, 74-
11 5002a, 74-8703, 74-8805, 74-9804, 75-1510, 75-2535, 75-5105 and 75-
12 5117 and K.S.A. 2007 Supp. 32-801, 45-221, 46-2601, 74-560, 75-711,
13 75-712, 75-1304, 75-2701, 75-3702a, 75-5001, 75-5101, 75-5203, 75-
14 5301, 75-5601, 75-5701, 75-5903, 75-6301, 75-7304 and 75-7402 and
15 repealing the existing sections.

16

17 *Be it enacted by the Legislature of the State of Kansas:*

18 New Section 1. (a) As used in this section:

19 (1) "Office" means any state office or board, commission, council,
20 committee, authority or other governmental body the members of which
21 are required by law to be appointed by an appointing authority, and which
22 appointment is subject to confirmation by the senate as provided in K.S.A.
23 75-4315b, and amendments thereto.

24 (2) "Appointing authority" means a person, other than the governor,
25 who is required by law to make an appointment to an office.

26 (3) "Chairperson" means the chairperson of the confirmation over-
27 sight committee.

28 (4) "Committee" means the confirmation oversight committee estab-
29 lished by K.S.A. 46-2601, and amendments thereto.

30 (5) "Director" means the director of the Kansas legislative research
31 department or the director's designee.

32 (b) No person may be appointed to an office unless such person has
33 completed and submitted a nomination form as required by the rules of
34 the committee. No person may be appointed to an office unless such
35 person has filed a statement of substantial interest as required by K.S.A.
36 46-247, and amendments thereto. A copy of the nomination form and the
37 statement of substantial interest shall be kept on file in the office of the
38 director and shall be subject to disclosure under the Kansas open records
39 act.

40 (c) No person may be appointed to an office unless such person has
41 consented to a background investigation conducted by the Kansas bureau
42 of investigation. No person may be appointed to an office unless such
43 person consents to the release of tax information by the Kansas depart-

1 ment of revenue and the federal internal revenue service to determine if
2 such person is current in the payment of taxes.

3 (d) Any ~~legislator~~ who desires to appoint a person to an office shall
4 forward to the chairperson a completed copy of the nomination form, the
5 statement of substantial interest, the consent to the release of tax infor-
6 mation and a written request that a background investigation be con-
7 ducted on the person nominated for appointment to an office. Upon
8 receipt of such information, the chairperson shall forward such infor-
9 mation and a written direction to the director to request the Kansas bu-
10 reau of investigation to conduct a background investigation of such nom-
11 inee and to request the Kansas department of revenue to release tax
12 information which is necessary to determine if such person is current in
13 the payment of taxes. Upon written request of the director and the ~~leg-~~

appointing authority

14 ~~islator~~ who nominated the person for appointment to an office, it shall
15 be the duty of the Kansas bureau of investigation to conduct a background
16 investigation of any person nominated for appointment to an office. Any
17 person nominated for appointment to an office shall submit such person's
18 fingerprints to the Kansas bureau of investigation for the purposes of
19 verifying the identity of such person and obtaining records of criminal
20 arrests and convictions. Upon written request of the director, it shall be
21 the duty of the Kansas department of revenue to release to the director
22 tax information requested pursuant to this section.

appointing authority

23 (e) The director may receive from the Kansas bureau of investigation
24 or other criminal justice agencies, including, but not limited to, the fed-
25 eral bureau of investigation and the federal internal revenue service, such
26 criminal history record information (including arrest and nonconviction
27 data), criminal intelligence information and information relating to crim-
28 inal and background investigations as necessary for the purpose of deter-
29 mining qualifications of a person nominated to be appointed to an office.
30 Upon the written request of the director, the director may receive from
31 the district courts such information relating to juvenile proceedings as
32 necessary for the purpose of determining qualifications of a person nom-
33 inated to be appointed to an office.

34 (f) Any information received by the director pursuant to this section
35 shall be kept on file in the office of the director or in a secure location
36 under the control of the director within the Kansas legislative research
37 department. After receipt of information, the director shall notify the
38 ~~legislator~~ who nominated the person for appointment to an office and the
39 nominee that the information is available for review in the office of the
40 director. Upon the written request of such ~~legislator~~ or the nominee, the
41 director shall allow such ~~legislator~~ or nominee to review the information.
42 Such information shall not be removed from the office of the director
43 and shall not be duplicated or copied in any manner. If the ~~legislator~~

appointing authority

1 from public disclosure statistical information not descriptive of any identifiable person.

2
3 (f) Notwithstanding the provisions of subsection (a), any public record which has been in existence more than 70 years shall be open for
4 inspection by any person unless disclosure of the record is specifically
5 prohibited or restricted by federal law, state statute or rule of the Kansas
6 supreme court or by a policy adopted pursuant to K.S.A. 72-6214, and
7 amendments thereto.

8
9 (g) Any confidential records or information relating to security measures provided or received under the provisions of subsection (a)(45) shall
10 not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.

11
12
13 Sec. 5. K.S.A. 2007 Supp. 46-2601 is hereby amended to read as
14 follows: 46-2601. (a) There is hereby established the confirmation oversight committee which shall have six members. Except as provided by
15 this subsection, members of the confirmation oversight committee shall
16 be appointed in the manner provided by senate rule for the appointment
17 of members of standing committees of the senate. The two major political
18 parties shall have proportional representation on such committee. In the
19 event application of the preceding sentence results in a fraction, the party
20 having a fraction exceeding .5 shall receive representation as though such
21 fraction were a whole number. One of the members of the committee
22 shall be the majority leader, or the majority leader's designee, who shall
23 be the chairperson. One of the members of the committee shall be the
24 minority leader, or the minority leader's designee, who shall be the vice-
25 chairperson. The committee shall meet on the call of the chairperson or
26 any three members of the committee.

27
28 (b) If a vacancy occurs in *an office or in* the membership of a board,
29 commission, council, committee, authority or other governmental body
30 ~~or in the position of inspector general created under K.S.A. 2007 Supp.~~
31 ~~75-7427, and amendments thereto,~~ and the appointment to fill such vacancy
32 is subject to confirmation by the senate as provided in K.S.A. 75-
33 4315b, and amendments thereto, the confirmation oversight committee
34 may authorize, by a majority vote thereof, the person appointed to fill
35 such vacancy to exercise the powers, duties and functions of the office
36 until such appointment is confirmed by the senate in the manner provided
37 by K.S.A. 75-4315b, and amendments thereto, at the next regular or special
38 session of the legislature.

39 Prior to authorizing any person to exercise the powers, duties and functions of an office pursuant to this section, the confirmation oversight committee ~~may require such person to appear before the committee.~~

40
41
42 (c) (1) If the confirmation oversight committee authorizes a person
43 appointed to fill a vacancy to exercise the powers, duties and functions of

shall require such person to appear before the committee unless such person is being re-appointed to the same position.

1 of the Kansas health policy authority.

See Attached

2 Sec. 36. K.S.A. 17-2233, 48-203, 48-208, 65-2878, 65-34a02, 74-
3 2113, 74-2613, 74-5002a, 74-8703, 74-8805, 74-9804, 75-1510, 75-2535,
4 75-5105 and 75-5117 and K.S.A. 2007 Supp. 32-801, 45-221, 46-2601,
5 74-560, 75-711, 75-712, 75-1304, 75-2701, 75-3702a, 75-5001, 75-5101,
6 75-5203, 75-5301, 75-5601, 75-5701, 75-5903, 75-6301, 75-7304 and 75-
7 7402 are hereby repealed.

8 Sec. 37. This act shall take effect and be in force from and after its
9 publication in the statute book.

Sec. 36. K.S.A. 75-4315a. is hereby amended to read as follows: Whenever it is provided by law that the governor shall appoint the secretary of any department of state government or the chief administrative or executive officer of any other agency of state government or that the secretary of any department of state government shall appoint the director of a division, whether any of the positions designated herein are in the classified or unclassified service of the Kansas civil service act, and whether such department, agency or division has been specified by statute or authorized by statute to be established, the governor or departmental secretary may appoint an acting secretary, chief administrative or executive officer or director to serve for a period not greater than ~~twelve (12)~~ six months. Any acting state officer appointed under authority of this section shall have and exercise all of the powers, duties and functions of the office in which he or she is acting. Subject to the approval of the state finance council, the governor or the secretary appointing an acting state officer shall fix the salary of the acting state officer if the position is in the unclassified service, and in no event shall the salary of the acting state officer be less than the amount the person appointed is receiving in such person's permanent state employment. ~~If the person appointed serves as an acting state officer for more than six (6) months, such person shall be paid the minimum rate of compensation established for the position in which such person is acting if such minimum rate of compensation is more than the compensation such person is receiving immediately prior to the expiration of such six (6) month period.~~ In the event the person appointed as an acting state officer is in the classified service prior to such appointment, such person shall retain the right to return to his or her permanent classified status without loss of any civil service right and his or her service shall be deemed to be continuous.